

*United States Court of Appeals
for the Second Circuit*



AMICUS BRIEF

76-6150

**United States Court of Appeals
FOR THE SECOND CIRCUIT
Docket No. 76-6150**

**EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION,**
Plaintiff-Appellee,

—v.—

**LOCAL 14, INTERNATIONAL UNION OF OPERATING ENGINEERS, LOCAL 15, INTERNATIONAL UNION OF OPERATING ENGINEERS, et al.,
Defendants-Appellants.**

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

AMICUS CURIAE BRIEF OF THE UNITED STATES OF AMERICA IN SUPPORT OF THE PETITION OF THE E.E.O.C. FOR REHEARING AND SUGGESTION FOR REHEARING IN BANC

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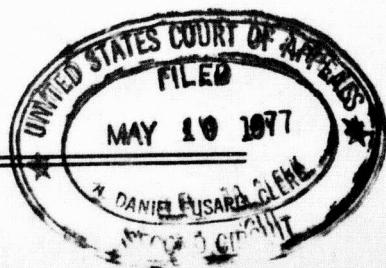


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Preliminary Statement

The United States of America respectfully suggests that this Court grant the petition of the Equal Employment Opportunity Commission (hereinafter "E.E.O.C.") for rehearing and suggestion for rehearing *in banc*, of the opinion of a panel of this Court (Timbers, Gurfein and Van Graafeiland, *J.J.*), filed March 21, 1977, reversing a judgment of liability against Local 15 entered in the United States District Court for the Southern District of New York and remanding for a reconsideration of the order for relief entered by the district court.

E.E.O.C. v. Local 14, International Union of Operating Engineers, et al., No. 76-6150, slip. op. 637 (2d Cir. March 21, 1977).

Reasons For Amicus Curiae Position of the United States of America

This amicus curiae brief in support of the E.E.O.C.'s petition for rehearing and suggestion for rehearing *in banc* is submitted by the United States of America for two reasons.

First, this case was filed on behalf of the United States of America by the United States Attorney for the Southern District of New York, and tried and handled by that office in the district court. Because it handled the trial of this matter, which has a lengthy record, the office of the United States Attorney for the Southern District of New York is most familiar with the facts, and a careful review of the panel's decision makes it clear that in a number of significant respects the decision is premised on certain factual errors.

Second, the United States of America still has exclusive authority on behalf of the federal government for the judicial enforcement of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-5(f), with respect to public employees. The panel's decision, if left unaltered, may affect the efforts of the United States of America to enforce Title VII against public employers.

Reasons for the Petition

The panel's decision in this case should be reheard, preferably by an *in banc* Court, for six reasons.

First, Local 15's post-Civil Rights Act minority admissions rate was not 20%, as represented to and then

used by the panel to negate the findings of discrimination by Local 15. The true figure, based on the same trial record used by Local 15 for its calculations, is 9.5%. Accordingly, no matter how the comparative minority work force is defined and calculated, a *prima facie* case of discrimination by Local 15 was established and should have been affirmed.

Second, assuming it is proper to use the areas of union members' residences to define the relevant work force area (here, Northeastern New Jersey and the New York SMSA), Local 15 also miscalculated the minority percentage of the work force of this area to be 16.2%. The actual figure, based on the same source of data for the evidence advanced for the first time by Local 15 to the panel, is approximately 24.1%. Thus using Local 15's own suggested geographic area to define the relevant work force, there was still an overwhelming *prima facie* case.

Third, the panel erred in concluding that the district court chose the wrong geographic area. The district court's use of New York City was consistent with other Second Circuit cases and the cases relied upon by the panel.

Fourth, the panel's apparent singular focus on the areas where union members reside is not the most reliable criteria to determine the relevant geographic area for statistical purposes in all cases. Moreover, it may cause substantial confusion among the district courts in this Circuit.

Fifth, the overwhelming evidence, including all proof Local 15 was able to offer, and the district court's specific finding of Local 15's past and continuing discriminatory practices, compel the affirmance of Local 15's liability,

even in the absence of the statistically proven *prima facie* case. By reversing, the panel has turned the use of statistics on its head in Title VII cases. In the face of this record of actual discriminatory treatment of minorities, as strong as any other case brought by the Government in the Southern District of New York, the panel's decision was unwarranted and if left unchanged, will thwart the effective enforcement of Title VII in this Circuit.

Sixth, the remand of relief, at least as to the unions, which were fully heard on this matter below, was improper. Every aspect of the district court's affirmative relief was warranted by the full record before the district court and well within the discretion of district court. Each element thereof has been affirmed previously by this Court in cases involving no more proof than was before the Court here. If such relief can no longer be used on a record as strong as in the instant case, this Court has taken a significant step backward in providing effective affirmative relief in such cases. The panel's opinion is likely to have a substantial chilling effect on district courts throughout the Circuit.

Statement of the Case

a. District Court's Findings

After a trial in September, October and December, 1974, the Honorable Charles H. Tenney, in an opinion dated May 10, 1976, found that both defendant unions, Locals 14 and 15, International Union of Operating Engineers, had engaged in a pattern and practice of discrimination in training, recruiting, referring for work and admitting to membership minority workers. The

opinion is reported at 415 F. Supp. 1155 (S.D.N.Y. 1976).
(JA I 70-127).*

The district court found that the statistical disparity between Local 14's and Local 15's minority union membership as of the trial date (2.8% and 6.5%, respectively) and the minority percentage of the relevant labor force in New York City (36.39%), where over 95% of the union members work, was sufficient to establish a *prima facie* case of discrimination. The district court also made sweeping and detailed findings of fact that in every major aspect of union affairs and practices, each union had discriminated against minority workers. The district court's findings of liability against Local 14 were affirmed. Summarized below are the district court's salient conclusions as to Local 15.

1. Union Membership Requirements

As to Local 15's admissions policies, Judge Tenney stated that the newly imposed practical test on at least three pieces of machinery was "a significant increase in Local 15's standards for admission," 415 F. Supp. at 1172, and not only does it "perpetuate the white union membership which exists because of prior discrimination, but also it continues to be an active and contemporary example of unlawful adverse and disparate treatment of minorities." *Id.* at 1173 (emphasis added). Judge Tenney summarized his views on admissions by concluding that "the testing procedures are unlawful for the impact on minorities caused by their vague, inconsistent, subjective, and arbitrary application and administration. A test which is required of some, not of all; which relates to only a

* References to the parties' joint appendix are cited as "JA", followed by the volume number and page; references to the transcript are cited as "Tr."; references to plaintiff's exhibits are cited as "PX."

small portion of the relevant skills despite the applicant's knowledge of many others; which has no standards for measuring success; which is given by different people applying different rules; and the passing of which does not guarantee prompt union membership is an obstruction of equal employment opportunities without any relationship to business necessity. . . ." *Id.**

2. Union Referral Practices

In discussing Local 15's referral practices, Judge Tenney noted that "[t]here is no logical order of referral of workers, and no objective criteria for referral. . . . It appears that minorities are referred less frequently and wait far longer for job referrals no matter what the employment conditions are, and that union officials tend first to refer people known to them who usually are union men and therefore predominantly white." *Id.* at 1173-74. Local 15's "referral practices are illegal because they tend

* "Local 15 has no consistent and objective criteria for approving applicants for membership." Finding No. 33. (JA I 92).

"Local 15 has in the past heavily relied upon nepotistic and word-of-mouth recruitment for obtaining applicants. . . . This is still true, even as to minorities." Finding No. 34 (JA I 93).

"This [new practical test] is completely subjective, has never been validated as job related, and is not required by business necessity." . . . "There are no uniform and objective criteria for proficiency or skill used to determine a passing performance. . . ." Finding No. 36. (JA I 94).

"The admissions policies of Local 15 discriminate against minority persons." . . . "Today, minorities must meet a more restrictive entrance requirement than was required of the existing heavily white membership. Many new white members bypass the testing requirements. . . ." . . . "There is also evidence that minority applicants for membership are forced to wait longer than white applicants before they receive their union book. Local 15 has used the test, in certain instances, to disqualify or discourage qualified minority applicants who should have been admitted promptly after performing satisfactorily for an employer. . . ." Finding No. 37. (JA I 95).

to discriminate against minorities and perpetuate the effects of past discrimination." *Id.* at 1174.*

3. Local 15's Recruitment and Training Practices

Judge Tenney noted that "since training is a necessary prerequisite to jobs or job referrals and therefore to admission in Local 15, any discriminatory training practices operate to deny minorities equal jobs and admission to the Union." *Id.* at 1172. He pointed out that "[a] far greater percentage of whites continue to gain their training outside the school than is true for minorities. Furthermore, Local 15 has refused to recognize or accept without further training or testing minority graduates of other training programs, such as those operated by the Job Corps or by the military services." *Id.***

* "Work assignments are not customarily made on a first come, first served basis, but rather are made in the order in which an individual has signed the list". . . "This system of giving work to union and nonunion men on the basis of subjective, discretionary decisions of business agents, unsupported by objective and fair tests or criteria, or even by personal observation with respect to the job skills in question, and often the result of ignorance or personal preference, operates to the disadvantage of minorities." Finding No. 31. (JA I 90-91).

** "However, since the school training requirement is imposed primarily upon minorities, it adversely affects their employment and membership opportunities. . . ." Finding No. 27. (JA I 88).

"Other training programs produce large numbers and percentages of minority graduates, yet Local 15 refuses to accept the experience and qualifications of these minority graduates. . . ." ". . . Local 15's refusal to accept their status and training, where less experienced and less or equally qualified white persons without such training are referred, and in fact even admitted to the Union, discriminates against such minorities." Finding No. 28. (JA I 88, 89).

4. Lack of Affirmative Action by Local 15

Judge Tenney noted that "Local 15 fails to accept, as it should, the blame for the New York Plan's limitations or discriminatory treatment by Local 15 of minorities who were supposed to be aided or for its almost total reliance on this inadequate, discriminatory plan for the training of minorities." *Id.* at 1176. Judge Tenney concluded that "[i]t therefore appears that whatever affirmative action Local 15 claims to have taken to counteract discriminatory practices was in itself discriminatory." *Id.* at 1177.*

b. Affirmative Relief Granted By the District Court

Judge Tenney entered a permanent injunction against future discrimination by all defendants and ordered an affirmative action program into effect, which was later amended on October 14, 1976. (JA I 239, 272). This program included a number of significant features, some of which were to last only for the temporary life of the decree:

1. A goal of 36% minority union membership by September 1, 1981, with interim goals.
2. Awards of back pay and other benefits to those minorities who could prove they were injured by

* "As a participant in the New York Plan [a local voluntary minority hiring program], Local 15 has provided unstructured and inadequate job assignments and training for minorities and has inhibited contractors from complying fully with equal employment contract requirements." Finding No. 48. (JA I 102).

"Local 15's practices regarding pay scale and union membership under the New York Plan have also discriminated against minorities." Finding No. 49. (JA I 103).

the unions' discriminatory practices, to be paid by the unions.

3. Limiting of union membership qualifications to objective and necessary requirements, including the proper validation of all tests, and establishing a fair procedure for the qualification of new members.
4. Combining of the unions' separate referral lists to one joint list, administered on a first in, first out basis for qualified applicants.
5. Proscription against employees seeking work directly from employers.
6. Adoption of an apprenticeship and a training program.
7. Advertising in minority communities.
8. Establishment of procedures and penalties for effective enforcement, implementation and administration of the Court's decree.
9. The appointment of a highly experienced and respected Administrator to oversee implementation of the Court's decree.

c. The Panel's Opinion

Despite these findings, the panel concluded that "[i]t is clear from the Judge's opinion that he relied on his prior finding of a *prima facie* case in deciding these issues [Local 15's practices] and placed the burden of justification upon the local." (Slip op. at 2488). The panel concluded further that since the district court erred in its statistical analysis with respect to Local 15, the finding of liability against Local 15 had to be reversed.*

* The finding of liability against Local 14 was affirmed by the panel.

This was premised on a two-pronged criticism of the district court's statistical method.

First, the panel stated that the relevant labor force was not limited to the geographic jurisdiction of Local 15, but included, to some unspecified extent, the areas where the union members lived. (Slip op. at 2485). While the work force in the former area is about 36% Black and Spanish, Local 15 asserted that the latter area work force is only 16.2% Black and Puerto Rican.*

Second, while accepting that the disparity between Local 15's 6.5% minority membership and 16.2% would still support an inference of discrimination (slip op. at 2485), the panel used an alleged post-Act minority admission rate of 20% to explain the disparity and negate the inference of discrimination. (Slip op. at 2486). This rate had been argued to the district court by Local 15, but it was never accepted. Based on the record, primarily Local 15's own membership lists (PXs 98 and 99), the post-Act minority rate is actually only 9.5%.** Moreover, the panel used the statistics to overcome sweeping and well-supported independent findings of discriminatory practices by Local 15.

As to relief, the panel concluded that the contractors associations, who had not participated in the trial on liability, but who did have an opportunity for oral argument and written submissions on the parties' proposed

* This was a methodology and statistic which Local 15 proposed for the first time on appeal. For some unexplained reason, the union failed to include non-Puerto Rican Spanish workers and failed to base its calculations on the correct educational level of the relevant work force.

** Since no material post-Act changes in admission were alleged by Local 14 and only 2.8% of its members were minorities, any error in choosing the proper geographical area was held harmless as against Local 14.

orders for relief, did not have an adequate opportunity to present their views on relief.*

The panel remanded to the district court to "conduct a full evidentiary hearing concerning the practices and procedures in the construction industry and the effect which his order will have not only upon the defendant unions, but also upon the defendant contractors associations and their members." (Slip op. at 2492).

ARGUMENT

POINT I

The Statistics Which The Panel Used To Upset The District Court's Finding Of Liability Against Local 15 Were Materially Wrong.

A. The Panel Used A Post-Act Minority Admissions Rate Into Local Union 15 Of 20% When The Only Correct Figure Is 9.5%.

The panel accepted Local 15's assertion on appeal that since July 2, 1965, the effective date of the Civil Rights Act of 1964, (hereinafter "The Act"), "approximately 20% of its new members have been minority workers," (slip op. at 2486), and then used this post-Act figure as a key fact to negate the discrepancy between the percentage of minorities in the general work force (at least 16.2% by the union's calculation) and the 6.5% of the union which is minority. This assertion is contrary to the evidence. When the evidence is properly analyzed, the

* In fact only two of the associations appealed, and neither ever presented to the district court any recitation of what it intended to prove on relief and how it would do so.

true post-Act minority admissions rate is only about 9.5%. Therefore, even assuming that the minority percentage of the appropriate labor pool is 16.2% as asserted by the union (although this is a materially understated figure, *infra* at Point I, B), there is still a sufficient disparity between it and the true 9.5% post-Act figure to create an inference of discrimination.

Local 15 (App. Br. at 12)* obtained its 20% figure primarily by listing what it claimed were all admissions to the union from 1966 (the first full year after the effective date of the Act) through June, 1972, before the lawsuit was filed.** It then counted the number of minorities on the minority members list (PX 99) who were admitted during the same period and calculated the minority percentage of the allegedly "total" admissions. This was improper and misleading because the record shows that the number of total admissions used by the union (938) constitutes *less than one-half of the members actually admitted during this period.*

In its original brief Local 15 obtained the figure for total Local 15 admissions from a *proposed* pre-trial stipulation to which Local 15 never agreed. (JA I 66-69). As is apparent from the stipulation, there were no admission figures for branches 15B and 15D. This was so because these proposed stipulation's statistics were based upon the Government's analysis of union executive board minutes for branches 15, 15A and 15C only (PX 11A), and which, of course, reflect only the admission of new members to those branches, and not to Branches 15B and 15D. The Government included in its

* Appellate briefs are cited as "App. Br."

** In terms of liability, post-Act statistics, if used at all, should be limited to that period of time before the filing of the instant lawsuit, since a union's temporary response to litigation should not be a defense to pre-suit conduct. See, e.g., *Jenkins v. United Gas Corp.*, 400 F.2d 28, 33 (5th Cir. 1968).

post-trial submissions an analysis of these minutes (see comment to proposed finding of fact no. 48; Record Item 90), but carefully omitted any reference to Branches 15B and 15D for which there were no comparable records.* Since the actual minority admissions for this period which Local 15 uses are taken from PX 99 which includes all branches of the union, but Local 15's total union figure (taken from PX 11A) does not, a comparison of the two totals materially overstates the minority percentage of the union.**

There is only one exhibit in evidence to which the minority admissions of PX 99 can be compared to obtain a minority percentage of total union admissions. This is PX 98 which is comparable to PX 99 but lists all union members as of August, 1972, by the date of their admission to the union. In other words, both of these exhibits show union members as of the date of the exhibit and list the initiation date of each member; one exhibit is for all members, the other is for minorities only. Examination of PX 98 shows that all branches of Local 15 had a total of 2023 members who actually had been admitted from January 1, 1966 through June 30, 1972.*** Examination of PX 99, dated July 5, 1974, shows that all branches of Local 15 had a total of 192 minority members

* Except for PX 98, there are no figures in the record for separate admissions for branches 15B and 15D for the post-Act period.

** Careful examination of the charts in the stipulation and proposed finding reveals that the totals listed there for new admissions (which Local 15 uses in its tables, App. Br. at 12) also include internal transfers from other Local 15 branches and therefore are not new admissions to Local 15. Perhaps it was for this reason that Judge Tenney did not accept this proposed finding. In any event, these figures were offered ultimately to show how easy it was for people to transfer into a branch of Local 15 from another branch or from another local and not how many really new admissions there were.

*** This also makes it clear that the admission data based on union executives board minutes is incomplete.

admitted during the same period. Therefore, the minority post-Act admissions constitute only 9.5% of the total admissions.*

In an exchange of post-argument letters to this Court, Local 15 suggested that any impropriety in using the table of admissions taken from the proposed stipulation, which was not in evidence, could be eliminated by using the yearly membership figures for Local 15 proposed by E.E.O.C. and adopted by Judge Tenney (Finding No. 18). However, this suggestion is conclusively refuted by PX 98. It incorrectly assumes that the difference between the figures for any two dates represents all new members admitted in that period. This is not true. For example, as of January 1, 1966, Local 15 had 4772 members and as of January 1, 1972, 5661 members. The difference, 889, does not equal all members admitted during this time because PX 98 shows about 2009 members were actually admitted during this time period. Obviously the difference between 2009 and 889 represent members who left the union or died during this time.** The figure 889

* The E.E.O.C.'s Petition for Rehearing, Attachment A, contains a table setting out fully the yearly admissions for Local 15 for this time period. The calculations above are based upon the original exhibit 98 admitted into evidence (see Motion of E.E.O.C. for Leave to Correct the Record on Appeal, dated April 25, 1977). The copy of PX 98 before this Court omits seven pages of Local 15B members. However, if the incomplete copy of PX 98 is used to calculate post-Act admissions, then, of course, the minority post-Act Local 15B admissions must not be used either. As E.E.O.C.'s table, Attachment B, shows, excluding 15B there were 157 minorities out of 1793 members admitted from January 1, 1966 through June 30, 1972. In other words, even using the copy of PX 98, there was a minority admissions rate of *only* 8.75%.

** The post-argument letters to the Court did not analyze PX 98; Local 15's letter suggested that the attrition rates for minorities and whites must be equal and therefore the annual membership figures are sufficient. PX 98 establishes that it is not sufficient to subtract one membership figure from another, and clearly shows that attrition rates are not similar.

merely represents the net change in total membership, not the actual admissions.

Therefore, PX 98, which is the only evidence in the record which is complete and comparable to PX 99, upon which Local 15 relies for its minority data, irrefutably establishes that at least 2023 men were admitted to Local 15 during the relevant time period before this lawsuit was filed, and not the 938 on which the panel premised its calculation of a 20% minority rate.* Accordingly, there is no basis to reverse the district court's finding of liability against Local 15.

B. The Union Understated The Minority Percentage Of The Work Force In The Area Where Union Members Reside as 16.2%, When The Actual Figure Is 24.1%. Accordingly, Any Error In The Choosing Of A Geographic Area By The District Court Was Harmless.

As set forth *infra* at 19, the Government believes that in this case it was error for the panel to select the relevant geographical area by focusing on where Local 15's members actually live. However, even assuming it

* The Government was entitled to rely initially in proving its *prima facie* case by statistics on the percentage of minorities in the union at the time of the lawsuit. If post-Act admission rates are to be used by the defendant union to explain this statistic, it is the union, which has greater access to and knowledge of such rates, which had the burden in the district court of proving such figures. In the instant case, aside from PX 98 there are no complete figures in the record, nor did the union offer any or provide the district court with any analysis other than the subtraction of membership figures from year to year. It is small wonder, then, that the district court did not and could not accept Local 15's assertion that its post-Act minority admission rate was 18%. (Local 15 D. Ct. Reply Brief at 6).

was correct to do so, the union miscalculated the minority percentage for this area. The correct percentage is 24.1%, and therefore, the error, by the district court, if any, was harmless.

For the first time on appeal, Local 15 asserted that minorities comprise 16.2% of the civilian work force members in areas in New York and New Jersey where Local 15 members live.* The panel assumed *arguendo* the accuracy of this figure, compared it to the incorrectly calculated post-Act minority admissions rate of 20%, and then reversed the finding of Local 15's liability, because the district court's error in choosing an area of relevant labor force could not be considered harmless as to Local 15. However, this assumption is faulty since Local 15 failed to include Spanish language work force members, failed to calculate a figure for the work force with the proper educational level, and failed to account for the exceptional undercounting of black workers by the census count. All of these procedures should have been followed, as they were by Judge Tenney, and by other judges in this Circuit, and approved by this Court. *E.E.O.C. v. Local 28*, 532 F.2d 821 (2d Cir. 1976); *Rios v. Enterprise Ass'n of Steamfitters Local 638*,

* It is possible to get a true perspective on the union's and the panel's use of union members' residence by understanding what geographic area the union has chosen to arrive at a 16.2% minority figure. The union figures (App. Br. at 16) are based upon the area known as "New York-Northeastern New Jersey." United States Department of Commerce, *General Social and Economics Characteristics, 1970 Census of Population—New York*, PX 1B, Table 85, p. 365. The New York portion consists of New York City and the Counties of Nassau, Rockland, Suffolk and Westchester (*Id.* at 277), while the New Jersey portion includes the SMSA's of Newark, Jersey City, and Paterson-Clifton-Passaic, and the Counties of Middlesex and Somerset (*Id.* at App. 4), or portions of New Jersey almost fifty miles from the closest tip of Manhattan.

501 F.2d 622 (2d Cir. 1974); *Patterson v. Newspaper and Mail Deliverers' Union*, 384 F. Supp. 585 (S.D.N.Y. 1974), aff'd, 514 F.2d 767 (2d Cir. 1975), cert. denied, sub nom. *Larkin v. Patterson*, 44 U.S.L.W. 3756 (June 30, 1976).

In the Appendix to this petition, the Government has set forth the complete minority work force calculations as they should have been done using the methods previously used in this Circuit and approved by this Court, based upon the same source of census data used by the union for its incomplete figures and using the union's own suggested geographic area. Although the instant suit was brought on behalf of Blacks and Spanish-surnamed workers, and although the figures for the Spanish workers were available in the same census tables used by Local 15, the union considered only Puerto Rican workers (App. Br. at 16). As the Appendix sets forth, this omits an additional 3.3% of the total civilian work force which is minority. (Compare the union's 16.2% to 19.54% from Table A(1)). Second, the union failed to consider that the district court found that the relevant work force for Local 15's jobs has always been that work force with a high school education or less, 415 F. Supp. at 1170, a standard adopted in other construction worker cases in this Circuit. Since minorities comprise a greater percentage of this work force than of that with some college education, this mistake by the union omits another 3-4% of the work force which is minority. (Compare 23.08% to 19.54%, both from Table A(1)). Finally another percentage point is omitted by failing to take into account the net effect of undercounting the total and the Black workers.

Since minorities actually comprise about 24.11% of the civilian work force even in the area suggested by

Local 15 (Table A(2)),* even when compared to the minority post-Act rates, *supra*, there was clearly a *prima facie* case, and therefore any error by the district court in choosing the geographical area was harmless.**

Since union membership figures are contained in the record before this Court, there is no need for further review by the district court. This correction alone requires that the finding of liability against Local 15 be reinstated. The minority work force statistics should also be decided by this Court. The district court's choice of a geographical area should not be disturbed if it can

* This figure is also conservative because it is based upon 1970 census data. Another Government publication, *Geographic Profile of Employment and Unemployment, 1973*, U.S. Department of Labor, Bureau of Labor Statistics, shows that the Black percentage actually increased from 1970 to 1973.

** Minorities are about 16.53% of the civilian work force in Northeastern New Jersey and about 27.22% of the work force in the New York nine county SMSA. Table A(2). These figures are also more consistent with minority figures approved in this Circuit for areas similar to that suggested by Local 15. For example, on remand in *Rios*, the district court found that the minority percentage for the area including New York City and Nassau and Suffolk counties was 26%-29%. 400 F. Supp. 983 (S.D.N.Y. 1975). In *Patterson v. Newspaper and Mail Delivers' Union*, *supra*, this Circuit approved the use of a settlement figure of 25% for the New York-New Jersey area that was based on submissions to the district court showing that minorities comprise about 32% of the males in the labor force with a high school education or less and living in New York City and Nassau County. In *United States v. Local 638 Enterprise Ass'n, . . . Local 40*, 347 F. Supp. 169 (S.D.N.Y. 1972), Judge Gurfein, a member of this panel, concluded that the eight counties of New York City, Nassau, Suffolk and Westchester had a black and Puerto Rican population of 24% (adjusting this to include males in the work force with a high school education or less and to include all of the Spanish language males besides Puerto Ricans would raise Judge Gurfein's figures approximately 6%).

be readily shown that such error was harmless.* Since the relevant work force in the union's chosen area is 24.11%, any error by the district court in choosing a geographic area was harmless.**

In view of the above, it is only fair and appropriate for this Court to reach the issue of liability as it did with Local 14. A remand on liability will only mean further needless delay. If the unions were liable, then the Government, just as much as the appellees, is entitled to have this Court determine whether the district court was within its discretion in ordering the relief it did.

C. The District Court's Choice of New York City As The Correct Geographic Area For The Relevant Labor Force Was Consistent With Previous Divisions Of This Court And Cases Relied On By The Panel. The Panel's Use of Union Members' Residence As The Singular Basis For Determining The Relevant Geographic Area Was Inappropriate.

Since there is a strong *prima facie* case of discrimination even if the geographical area most favorable to defendant Local 15 is used, there is no need for this Court to consider in this case the question of which geographical area should have been used. Even so, the

* In sustaining Local 14's liability, the panel accepted this proposition.

** The data supporting these conclusions comes from census publications and has been analyzed in the Appendix to this petition by methods previously approved by this Court. As Local 15 itself argued (App. Br. at 3 n.2), "[t]he Court can obviously take judicial notice of this [census] document. . . ." The Government agrees, see *United States v. United Bro. of Carpenters & J.*, Local 169, 457 F.2d 210, 214 n.7 (7th Cir. 1972), and respectfully suggests there is no reason to remand to the district court for the reconsideration of the question of liability.

district court's use of New York City as the relevant geographic area was consistent with *Rios v. Enterprise Ass'n of Steamfitters Local 638, supra*, other Second Circuit cases and the cases relied upon by the panel. Moreover, the panel's apparent singular focus on the areas where union members reside is not the most reliable criteria for choosing the geographic area and may lead to results which will not serve the purposes underlying Title VII.* Therefore, it is important that this Court, at a minimum, modify the panel's language in this area.

There is virtual unanimity in the cases that the showing of a statistical disparity between the proportion of minority employees in a union's work force and the proportion of the same minorities in the relevant labor market is sufficient to establish a *prima facie* case of discriminatory employment practices. The relevant labor market is, of course, that area from which an employer or union would draw its members in the absence of dis-

* At the trial, neither union offered any statistical evidence to refute the offer by the Government. Moreover, the panel's theory of looking to the members' residence for the relevant labor pool was never even suggested to the district court. Local 15 never suggested that the places its members lived were relevant. It is raised for the first time on appeal. In fact, Local 15's proposed order for relief *limited membership* to persons residing in New York City or the counties of Westchester, Nassau or Suffolk for 12 months prior to application. At the trial, Local 15's only complaint with the geographical area proposed by the Government was that it allegedly did not include all the areas where its members work (D. Ct. Br. at 4-5). Even as to its proposed geographical area, the union never analyzed the appropriate census data to suggest the "correct" minority figure for the trial court.

At no time in the trial court did Local 14 challenge the 36% minority figure proposed by the Government based upon a New York City work jurisdiction or the use of this figure on the question of liability. In fact, Local 14's proposed order for relief accepted 36% as a proper minority membership goal (¶ 5).

crimination. See *Rios v. Enterprise Ass'n of Steamfitters Local 638, supra*, 501 F.2d at 632-633. The question is how, in a particular case, to choose the correct geographic area.*

At least where other reliable data is available, it may seriously under-represent the actual percentage of minorities in the area from which an employer or union would draw its members, *absent discrimination*, to heavily or exclusively rely on where union members actually reside at the time of the suit. Such reliance can result, in effect, in rewarding a union's discriminatory policies. The location of union members in mostly white suburban areas may be heavily dependent on discriminatory practices of the union which tended to favor whites, who are more likely to live in these areas. But for the discrimination, more minorities would have obtained union membership and a much smaller percentage of union members would live in mostly white suburbs.**

The residence of union members after they joined the union is particularly inappropriate. White union members may have lived in New York City when they first joined the union, and then, having attained sufficient economic benefits from membership in a discriminatory union, may have moved to mostly white suburbs.

* In addition to choosing the area, it may be appropriate on some factual records to give weight in proportion to the share that that area contributes to the relevant work force. See, e.g., *Patterson v. Newspaper and Mail Deliverers' Union, supra*, where the district court accepted a more sophisticated approach.

** Using one interpretation of the panel's approach would mean that if a company or a union exists in an area which is 90% minority, and intentionally or otherwise recruits (or presently has) only white workers who live in all white suburbs, for purposes of using statistics to prove a *prima facie* case there would be no evidence of discrimination. The same would be true for a plant located on the border of a heavily minority central city, but recruiting only from suburbs.

In the instant case, for example, it would be easy to determine the geographic location from which Local 15 could draw employees to work on its jobs in New York City * without relying on the potentially biased data of where Local 15's members reside. The district court found that the eligible work force for Local 15's jobs was made up of all males with a high school education or less. As the E.E.O.C. petition points out (p. 11 and Attachment C), 86.3% of such persons (male and female) who work in New York City actually live in New York City. Therefore, the district court's reliance upon New York City statistics in determining liability was appropriate, because such statistics reflect where the overwhelming majority of the eligible labor force could be drawn from. See *Rios v. Enterprise Ass'n of Steamfitters Local 638*, *supra*. At most, the New York S.M.S.A. is the correct area, since about 95% of workers in that area with a high school education or less also live in that area. See E.E.O.C. Petition, Attachment C. Even if this broad area (in 1970 consisting of nine counties) is used, the

* Local 15's suggestion that work outside New York City should require that the entire New York SMSA was the appropriate geographic reference point was properly rejected by the district court, because only about 200 jobs, or less than 4% of the membership, could be identified as existing outside New York City. 415 F. Supp. at 1160 and n.5, and 1171 n.13.

The unions' principal officers consider the unions to be New York City Locals and they were so chartered. (Tr. 25). The International Constitution requires that the branches' territorial jurisdiction not exceed the parent local. (PX 50, Art. XIV, at 40-41). Local 15C's business agent stated that only 170-180 of his 1491 members worked outside New York City but these men had *followed their jobs* when their employers relocated certain shops outside the City. (Tr. 374). Local 15D's business agent could not specify where or how many of his men worked outside the City. (Tr. 372-73). Moreover, all 15D collective bargaining agreements limit 15D's jurisdiction to New York City. (See, e.g., PX 54 F at 4; 58 A at 3).

minority share of the eligible labor force is more than 27%. See Appendix, A-5. The New York-North Eastern New Jersey Standard Consolidated Area which includes areas almost fifty miles from the closest tip of Manhattan is, in any event, too broad.

The panel's reliance on *United States v. Hazelwood School District*, 534 F.2d 805 (8th Cir. 1976), *cert. granted*, 45 U.S.L.W. 3454 (Jan. 10, 1977), is misplaced, because that decision, in principle, is in accord with *Rios* and the decision of the district court. In *Hazelwood*, the district court had ruled that there was no *prima facie* case of discrimination against blacks in faculty hiring, because while the faculty was less than 2% black, less than 2% of the children in the school district were black. The Court of Appeals reversed, holding that the level of black student enrollment was irrelevant and the relevant consideration for a *prima facie* showing was the disparity "between the proportion of blacks in the employer's work force and the proportion of blacks in the labor market." 534 F.2d at 811-812.

The record in *Hazelwood* shows the Hazelwood school district was a small area within St. Louis County and that 80% of the teachers hired by the Hazelwood School District resided in St. Louis City and County at the time of their initial employment, and 73% resided in the County or the City, other than in Hazelwood. 534 F.2d at 811-812 n.7. Only 7% of the work force, therefore, was drawn from the Hazelwood district itself. *Id.* For these reasons, the Eighth Circuit agreed with the Government's contentions that St. Louis City and County was the relevant labor market area for determination of liability. *Id.* It was unnecessary to look beyond the area from which 80% of the employees were recruited. Moreover, in *Hazelwood*,

* In *Hazelwood* teachers were also recruited and hired from many areas beyond St. Louis City and County.

as was done by the district court herein, the court used a criteria much more reliable and reasonable than where employees currently resided, namely the natural recruitment area, based in that case on the residence as noted on the actual applications,* not where the teachers already hired lived. It is just as reliable, if not more so in certain cases, to use as the criteria the natural area from which eligible workers would likely come. Since here over 80% of the workers eligible for recruitment live in New York City, the district court's use of New York City statistics was correct.

This methodology is similar to the approaches used by the Second Circuit in other cases. In *Rios*, there was no examination of the number of union members living outside the union's seven county geographic jurisdiction, for example, in Rockland County, Westchester County or New Jersey, all of which Local 15 seeks to use. Accordingly, it is impossible to distinguish *Rios* on the ground that Local 638 drew its membership, "almost entirely" from within its geographic jurisdiction. Similarly, in *E.E.O.C. v. Local 28, supra*, this Court upheld a 29% goal for the sheet metal workers' union which had a geographic jurisdiction of New York City. There simply was no discussion of where the members lived.**

* We do not believe that adequate records exist in this case as to the residence of union members at the time they first entered the union, and therefore it would be necessary to take evidence from or concerning each member's residential history. In the instant case, it may be inherently unfair to examine the applications even if they existed, because applications from New York City minority residents may have been diminished as a result of a general belief that jobs to minorities were unavailable in this industry.

** Moreover, the cases relied upon by the panel in fact are consistent with the Government's methodology outlined above. In *United States v. Int'l Union of Elevator Constructors, Local 5*, 538

[Footnote continued on following page]

It is respectfully submitted that the inconsistency between the panel's decision and other decisions of this and other circuits will cause substantial confusion among the district courts. Therefore, we urge this Court to modify the panel's opinion to make clear that union members' present residence may not be the most appropriate criteria to determine the relevant geographic area for statistical purposes in every case.

POINT II

The Government's Sustained Its Burden Of Proof Irrespective Of The Statistics.

The panel's decision to reverse Judge Tenney's finding of liability against Local 15 and remand for further statistical findings or other additional proof is based upon the erroneous premise that "[i]t is clear from the Judge's opinion that he relied on his prior finding of a *prima facie* case [based on statistics] in deciding these issues [the union's practices] and placed the burden of justification upon the local." (Slip op. at 2488). This

F.2d 1012 (3d Cir. 1976), *aff'g* 398 F. Supp. 1237 (E.D. Pa. 1975), the Court upheld a 23% minority goal when the union's extensive geographic jurisdiction was only 15% minority, relying, it appears, upon the fact that the district court found that most of the jobs were in smaller areas within the union's jurisdiction and these areas had heavier concentrations of minorities. The location of where members live was not in issue. Similarly, the Ninth Circuit, in *United States v. Ironworkers Local 86*, 443 F.2d 544 (9th Cir.), *cert. denied*, 406 U.S. 950 (1972), held it proper to use statistics for the city of Seattle and not the larger area of the union's jurisdiction, because the City had the single largest population within the union's jurisdiction and it "is that area from which they would most likely draw the vast majority of workers . . ." 443 F.2d at 551 n.19.

premise is incorrect and ignores the obvious fact that statistics are not the only way to establish a case of discrimination. Judge Tenney's findings of discrimination did not rely on the statistical proof in any way, but rather provided an independent basis for deciding that the Government had proved by a preponderance of the evidence that Local 15 discriminated against minorities. See, *United States v. Ironworkers Local 86, supra.*

The Government tried this case by first introducing the relevant labor force and union membership statistics and then setting out to prove that the actual practices of both unions with respect to training, recruiting, referral and admissions were discriminatory. While the district court first concluded that the disparity between minorities in the relevant labor force and the union was sufficient to establish a *prima facie* case, it also made a separate and detailed examination of each of Local 15's practices and concluded in separate findings and a separate discussion that each of these practices in fact discriminated against minorities. The facts supporting these findings speak for themselves and in no way are they or the Judge's findings related to or dependent upon the statistical imbalance.

If anything is "clear" from Judge Tenney's opinion it is that he found that Local 15 actually treated minorities differently from whites to the disadvantage of minorities, and that Local 15 used practices which had an adverse impact on minorities. Statistics, after all, can only shift the burden of proof. There is no basis for concluding that Judge Tenney's findings that minorities were treated differently from whites depended in any way upon the statistical imbalance or the unions' failure to meet a burden of proof. Moreover, many of these findings have

no logical relationship at all to the union's membership statistics.*

Judge Tenney's findings were overwhelmingly supported by the record. The Government submitted to the district court a list of seventy lengthy findings of fact, each carefully annotated (for 128 pages) to the exhibits in the record and the testimony at trial (Record Item No. 90). While Local 15 on appeal attacked Judge Tenney's findings as unsupported or refuted by portions of the record carefully selected by Local 15, examination of the annotated proposed findings reveals that the attack is without merit.**

* One of the most important findings concerned discriminatory referral practices. Referral practices have no necessary or logical connection to membership figures. A union can admit minorities until they comprise 50% of the union, and nevertheless, if the union refers the minority members and white members on unequal terms, such practices are illegal. In the instant case, Judge Tenney found that the lack of objective criteria or a logical order for job referrals operated to the disadvantage of minorities. *Supra* at 6. Whatever the statistics show, they have no bearing on that conclusion, the union's liability therefore and the need for immediate and appropriate relief.

The same is true of Judge Tenney's findings concerning Local 15's unnecessary and unequal training policies which made it more difficult for minorities to get job referrals and union membership; and Local 15's new, unvalidated, vague, inconsistently and subjectively applied admission tests which were not previously required of whites and were still frequently by-passed by whites, to the disadvantage of minorities.

** Local 15's appellate brief contended that Judge Tenney merely rubber-stamped the views of the Government because he adopted many of the Government's proposed findings of fact and most, important aspects of the Government's proposed order for relief. To put it mildly, this attack on an experienced and careful district judge which suggests he failed to perform his responsibilities faithfully is misplaced. On the contrary, Judge Tenney gave lengthy consideration to the record and the parties' briefs, and wrote a lengthy and careful opinion giving full consideration to all points raised. His acceptance of the Government's position (although not all of its proposed findings) and most of its proposed order for relief are totally supported by the record.

Simply put, Judge Tenney's findings of discrimination did not depend upon the statistical balance or a shifting of the burden of proof to the union. Both sides proved everything they could about the industry and the union's practices. Whatever the burden of proof was, it was met by the Government. It was error for the panel to simply ignore all of these findings and the lengthy supporting record and use statistics to refute them and the judgment of liability.

POINT III

The Remand Of The Entire Relief Granted By The District Court, If Warranted At All, Was Far Too Broad And Should Have Been Limited To Only Those Provisions Relating To Or Affecting Directly The Contractors Associations.

The panel did not review the propriety of the relief ordered in view of the facts before the district court, but rather remanded all the relief for a further evidentiary hearing. At a minimum this remand was too broad with respect to the great majority of relief ordered which only affected the defendant unions. This relief is totally separable from that relief which affects the contractors associations and which they may have standing to challenge. Whatever remand may be necessary to protect the interests of the associations, no remand is proper with respect to the unions.

A. Remand As to The Unions Was Improper.

At the trial on liability which lasted seventeen days, Judge Tenney heard extensive proof about all aspects of the union and employer practices in the construction industry from both the unions and the Government.

Every conceivable issue, at least in so far as it affected the unions, was fully aired. In fact, Judge Tenney was in a particularly unique position to judge the unions and their capabilities because the Government proved a major part of its case by calling as its witnesses many of the officers of Locals 14 and 15.* On May 10, 1976, Judge Tenney filed his opinion and *ten weeks later*, after ample notice to all parties, Judge Tenney held a hearing to consider the proposed orders of the Government, the unions and the General Contractor's Association (JA I 128-203). No other party submitted a proposed order. One of the appellants, Allied Building Metal Industries, Inc. did not even bother to appear at the hearing or otherwise communicate with the district court before the order was signed.

At the hearing, Judge Tenney exhaustively reviewed with the parties the Government's proposed order which was by far "the most comprehensive order" (JA I 130). Each party presented all its arguments against that order and at the conclusion of the hearing Judge Tenney told the defendants "if you would direct yourself to what you find to be extremely objectionable or unworkable or the like in the Government's proposed order and if you could put it in writing and send it to me, I will give it my serious consideration." (JA I 201-02). At no time during the hearing did the unions request a factual hearing of any kind nor did they make an offer of proof on any issue before the court.** There-

* The Government also called as witnesses a number of employers to testify about their practices.

** Local 14 merely suggested leaving open a number of items which could be addressed later by "suggestions by the neutral competent experts" (JA I 145-46); and that an order like the Government's should not be signed "without any imput from conferences, parties attempting to work out a solution, suggestions from people who have been involved in these things before. . ." (JA. I 147).

after, the parties exchanged letters to Judge Tenney expressing their position in detail on various aspects of the proposed relief (JA I 204-328), but again the union made no request for further hearings.

On September 1, 1976, Judge Tenney signed and had entered a final Order and Judgment. (JA I 239, hereinafter referred to by the paragraph of that order).* That order made clear that Judge Tenney retained jurisdiction over the case (¶ 61) and in fact on October 14, 1976, he modified the order to allow interested persons, like employers, to request that job categories be added to the referral hall practices. (JA I 272). In short, at no time did the unions ask Judge Tenney for an evidentiary hearing on relief, nor have they, even on appeal, ever delineated what they would show at such a hearing that is relevant to relief which was not fully covered at the trial on liability or the subsequent hearing. The unions, at least, were not entitled to any further opportunities below to be heard. *United States v. Wood, Wire & Metal Lathers, Local 46*, 341 F. Supp. 694 (S.D.N.Y. 1972), *aff'd*, 471 F.2d 408 (2d Cir.), *cert. denied*, 412 U.S. 939 (1973). To remand the relief ordered against them, especially under the vague order of the panel which totally fails to set forth the relevant

* Contrary to Local 15's suggestion on appeal, while Judge Tenney accepted many of the Government's positions, he nonetheless did make significant changes *sua sponte* or in response to points raised by the defendants. For example, the definition of pensioners to be included in the admission goals was modified to include only those recently working (¶ 6c), as Judge Werker had done in *E.E.O.C. v. Local 28, supra*; the length of time on a job to gain union membership was increased to fifteen days (¶¶ 15a, 16); he accepted Local 14's proposal to add a number of specific job categories for referral procedures (¶ 32(a)(7)) and provided for future expansion of the job categories (¶ 32(b)); he eliminated provisions for suburban jobs (¶¶ 33, 35(b)) and the requirement of each union training 100 minorities each year (¶¶ 43, 44(b)).

factors for consideration, is unfair to the minorities and violative of the principle that parties must raise their issues in the trial court first.*

On appeal, the contractors associations essentially object to the requirement that all union members must get their work directly through the hiring hall; that is, that there be an exclusive hiring hall. (¶¶ 30, 31). In addition to a permanent injunction against future acts of discrimination, there are a few minor provisions of the Order which also affect the contractors,** but most do not.

The unions have always maintained a hiring hall used by employers and a significant number of employees. Besides indirectly requiring the employers to use the hiring hall exclusively, the order insures that men will

* The unions can, of course, at any time ask the district court to modify the order and present evidence to the court on such a request. See ¶¶ 60 and 61. The district court has specifically reserved jurisdiction over its decree to ensure its effectiveness and fairness. Also, the Administrator is empowered to review problems that may arise with the decree (see e.g. ¶¶ 8, 9(a) and 60) and suggest modifications that may be appropriate. Any modification of the decree should be left to the district court in the first instance. Having familiarized himself completely with the unions and having observed the testimony at trial, the district judge would have the "keener appreciation of those facts and circumstances peculiar to the particular [case]." *Albermarle Paper Co. v. Moody*, 422 U.S. 405, 422-23 (1975).

** These provisions relate to keeping records (¶ 8(c)); providing requesting employees a certification for work they perform (¶ 20); not requesting from the unions specific individuals (¶ 34(b)); steps to distribute overtime equally to employees in the same job category (¶ 36); reviewing the contractors' records to uncover violations of hiring hall and employment practices (¶ 39(b)); a future plan providing supplementary on-the-job training for non-whites (¶ 44(a)); compensating a worker injured because of a violation of the decree (¶ 55); and posting notices and keeping copies of the decree (¶ 56).

be referred, if they are qualified, from a list maintained by the unions, on a first-in, first out basis which is fair to all.* Even Local 15's proposed order (¶ 7) similarly provided that work should be assigned from the hall to qualified men on the basis of "time unemployed while using the facilities of the referral hall."

Therefore, if a remand is necessary as to the contractors associations on the questions of the exclusivity of the referral hall, only that part of the order which imposes and implements an *exclusive* hiring hall should be severed and remanded for further review.** All aspects of the order affecting the unions, including all other aspects of the hiring hall procedures imposed on the unions, should be considered by this court and affirmed without further delay. There is simply no reasons by the contractors' position should operate to delay the entire order. Given the fact that the construction season is here or rapidly approaching, and minorities have waited so long for fair referral practices as well as other relief, any further delay may be catastrophic to their chances of working this year.

* The district court was obviously concerned about safety as well. (JA. I 176 and 190). To that end, provisions were embodied in the Order, for example, permitting the unions to first pass upon an individuals' job qualifications, subject to review by the Administrator, and to suggest appropriate tests, approved by the Administrator, where there was doubt. (¶ 32, 46). Additionally, employers are entitled to layoff workmen who cannot perform their jobs safely (¶ 38), as has always been the case in the industry. Therefore apart from exclusivity, none of the changes imposed on the hiring shall adversely affect the contractors.

** ¶ 30 (portions); 31; 35(b)(6); 37.

B. The Relief Ordered Against The Unions Was Justified And Mandated By Title VII, And The Record Below Was More Than Sufficient.

Since the judgment of liability against the unions must be affirmed, *supra*, and since the unions had a full opportunity below to be heard as to relief, this court is obligated to decide, and the Government is entitled to have decided now, the issues of relief.

On records strikingly similar to the one herein, this Court has explicitly sanctioned the very forms of relief imposed in this case. See e.g. *E.E.O.C. v. Local 28, supra*; *Rios v. Enterprise Ass'n of Steamfitters, Local 638, supra*; see also *Patterson v. Newspaper and Mail Deliverers' Union, supra*.

As this Court has affirmed time and again:

"the objective of Title VII is to 'attack the scourge of racial discrimination' which has 'caused manifold economic injuries, rates of unemployment and privation among racial minority groups.' *United States v. Wood, Wire & Metal Lathers Intl. Union*, 341 F. Supp. 694, 699 (S.D.N.Y. 1972), *aff'd*, 471 F.2d 408 (2d Cir.), *cert. denied*, 412 U.S. 939 (1973)." *Patterson v. Newspaper & Mail Deliverers' Union, supra*, 514 F.2d at 771-72.

To achieve this statutory mandate, district courts have been given broad equitable power to choose appropriate remedies once discrimination has been proved. *Franks v. Bowman Transportation Co.*, 424 U.S. 747, 763-64 (1976); *Rios v. Enterprise Ass'n of Steamfitters of Local 638, supra*, 501 F.2d at 629. In that context, the familiar terms "complete justice" and "necessary relief" applied to the granting of equitable remedies have acquired clear meaning according to the Supreme Court: "Where racial

discrimination is concerned, ‘he [district] court has not merely the power but the *duty* to render a decree which will *so far as possible* eliminate the discriminatory effects of the past as well as bar like discrimination in the future.’ *Louisiana v. United States*, 380 U.S. 145, 154 (1965)” (emphasis added) *Albermarle Paper Co. v. Moody, supra*, 422 U.S. at 418.

Appropriate relief can be denied or, accordingly, reversed on appeal “*only* for reasons which, if applied generally, would not frustrate the central statutory purposes of eradicating discrimination throughout the economy and making persons whole for injuries suffered through past discrimination.” *Franks v. Bowman Transportation Co., supra*, 424 U.S. 770, citing to *Albermarle* at 421 (emphasis added). In sum, the discretionary powers vested in the district courts were designed to “make possible the fashioning of the *most complete* relief possible.” *Albermarle, supra*, 422 U.S. at 421 (emphasis added). See also *Morrow v. Crisler*, 491 F.2d 1053 (5th Cir.) (*in banc*), cert. denied, 419 U.S. 859 (1974) (Court found that the district court should have ordered more affirmative relief); *Bowe v. Colgate-Palmolive Company*, 416 F.2d 711, 721 (7th Cir. 1969) (where discrimination was proved in a Title VII class action, “The full remedial powers of the court *must* be brought to bear and *all* appropriate relief given.”) (emphasis added). That is what Judge Tenney did here and in each instance the relief was completely justified. In remanding the question of relief so that the district judge “may conduct a full evidentiary hearing concerning the practices and procedures in the construction industry” (slip op. at 2492), the panel did not give proper consideration to the extensive trial record at least as to the unions.

There was extensive proof in the record to justify the imposition of at least those remedies solely applicable to the unions, proof which was more than adequate in other Second Circuit cases to sanction such relief.

These cases were followed by Judge Tenney here. For example, to remedy the long-continued, deeply engrained past and on-going discrimination—well-proven at trial (*supra* Point II)—a remedial minority membership goal was ordered, as was done in the *Local 28* case, 532 F.2d at 830, and in *Rios*.* In view of the continuing discriminatory actions of the unions, well past the effective date of Title VII, their sheer size and the myriad of tasks that must be assured throughout the period of the affirmative action program, and the need to not return to the court at every minor juncture, the appointment of an administrator, as in *Rios* and *Local 28*, was also warranted.** Back pay was also justified for those discriminated against by the Unions; in view of the proof offered at trial it was required under *Albermarle*, *supra*. The formula used here was almost identical to that approved by this Court in *Local 28*.

Obviously a requirement that admissions criteria be fair, objective, not unnecessarily onerous and job validated is appropriate, and the training and recruitment requirements are also well within a court's normal dis-

* This "goal" indeed was not a hiring quota and its imposition was justified even under the two pronged test mandated by *Kirkland v. New York State Department of Correctional Services*, 520 F.2d 420 (2d Cir. 1975), *rehearing denied*, 531 F.2d 5 (1975), *cert. denied*, 45 U.S.L.W. 3249 (Oct. 5, 1976) (i.e. "clear-cut pattern of long-continued and egregious racial discrimination" and no impact on a small "identifiable" group of non-minorities). Furthermore the method used for setting it at 36% was similar to that used in *Rios* and *Local 28*, see Point I, *supra*; and in any event if it is to be modified it should be done in a manner that is more equitable than using as the relevant geographical reference the location where members live. See Point I, *supra*.

** The unions made much to do about the expense of an administrator. However, if they comply with the order, after an initial period, he will not have to spend much time. Given a combined union membership of over 7500, even a full time Administrator could be paid by insignificant yearly assessments against each member.

cretion in a case like this. Finally, and perhaps most importantly are the changes in the hiring hall procedures and criteria. It is almost self-evident that such changes are necessary and appropriate in light of Judge Tenney's findings on referral practices. The hiring hall program approved here, without the exclusivity provisions, is similar to that approved by Judge Frankel and this Court in *United States v. Wood, Wire & Metal Lathers, Local 46, supra.*

All of these provisions have no impact on the contractors. To delay the implementation of this relief further under the guise of additional hearings on the "practices and procedures of the construction industry" generally would frustrate "complete justice" and deny to many the "most complete relief [that may be] possible." If all the relief granted by Judge Tenney in this Court's judgment is not yet warranted,* there is at least no reason to delay that which is. The *speedy* grant of warranted relief is one of the essential purposes of Title VII, as evidenced by that provision of Title VII requiring expedition of these cases, 42 U.S.C. § 2000e-6(b). To delay further the relief that may be warranted is to deny those deserving people at least a portion of their justice. Indeed, if such relief is not affirmed, this Court would not be fulfilling its "*duty* to render a decree which will *so far as possible* eliminate the discriminatory effects of the past as well as bar like discrimination in the future." *Albermarle, supra*, 422 U.S. at 418 (emphasis added).

* The Government submits that the contractors were given every opportunity to present their views on pertinent facts with respect to relief, and that no remand is necessary for them either. If rehearing or rehearing *in banc* is granted, we will gladly brief more fully the reasons why relief against the contractor associations was entirely proper.

In sum, Judge Tenney had considerably more than "some evidence" (slip op. at 2490) before him to justify the relief that he ordered. As we have shown the record clearly was not "incomplete" (slip op. at 2491), at least as to the unions.

CONCLUSION

The judgment of liability against Local 15 and the district court's order of relief should be affirmed. A remand, if any, should be limited to only those portions of the district court's order which directly affect the contractors associations.

Respectfully submitted,

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APPENDIX

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Appendix

Tables A(1) and A(2)

The minority civilian work force percentages for the areas where Local 15 alleges its members live are set forth in the following Tables A(1) and A(2). The basis for the Table A(1) figures is the calculations and supporting data set forth in the following Tables B(1), B(2), and C. The source of original data is indicated in the table (e.g., as Table 119). This source is the pertinent part of tables in the United States Department of Commerce publication *General Social and Economic Characteristics, 1970 Census of Population, New York*. Copies of the pertinent parts of these tables are included in this appendix.

Table A(2) corrects the Table A(1) figures on the basis Bureau of Census data on population undercounting found in United States Department of Commerce, *Estimates of Coverage of Population of Sex, Race, and Age; Demographic Analysis*, Table 3, at p. 29. (PX 3). Such data shows that the census undercounts the total male labor force and the Black male labor force by different amounts.

The census tables for New York do not reflect data precisely for Spanish Surnamed Americans. The tables' best approximation for persons in these areas who are of Spanish origin, or identified as such, is the data listed for Spanish language persons, which is defined in Appendix B in the above publication. (JA II 31). However, not every table of social or economic characteristics provides information for Spanish language persons, and therefore some conversions must be made.

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Tables B(1), B(2) and B(3)

Table B(1) computes the total civilian male labor force with a high school education or less. First, the percentages of the male *population* 25 years old and over with a high school education or less is computed. Then, assuming this percentage is approximately the same for the civilian male *labor force*, it is multiplied times the total civilian male labor force to determine the civilian male labor force with a high school education or less.

Table B(2) computes the total black civilian male labor force with a high school education or less. First, the percentage of the black male *population* 25 years old and over with a high school education or less is computed. Then, assuming this percentage is approximately the same for the black civilian male *labor force*, it is multiplied times the total black civilian male labor force to determine the black civilian male labor force with a high school education or less. The black male civilian labor force as a percentage of the total male civilian labor force, without respect to education, is also shown.

Table B(3) computes the total Spanish language civilian male labor force with a high school education or less. First, the percentage of the *Puerto Rican male population* 25 years old and over with a high school education or less is computed. Then it is assumed this percentage is approximately the same for the *Spanish language male population* 25 years old and over a high school education or less. Finally, assuming this percentage is approximately the same for the *Spanish language civilian male labor force*, it is multiplied times the total Spanish language civilian male labor force (from Table C) to determine the Spanish language civilian male labor force with a high school education or less. The

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Spanish language civilian male labor force as a percentage of the total civilian male labor force, without respect to education, is also shown.

Table C

This table computes the approximate number of Spanish language males 16 years or older in the civilian labor force. It is done by assuming that the ratio of Spanish language males in the civilian labor force to Puerto Rican males in the civilian labor force in the same ratio as the Spanish language population is to the Puerto Rican population. Table C is then used in Table B(3).

TABLE A(1)

State	Total Males in Civilian Labor Force 16 Years Old and Over Who Have a High School Education or Less (Table B(1))	Black Males in Civilian Labor Force 16 Years Old and Over Who Have A High School Education or Less (Table B(2))	Spanish-Language Males in Civilian Labor Force 16 Years Old And Over Who Have A High School Education Or Less (Table B(3))	Total Minority Percentage
New Jersey	897,073	95,667	10.66% of N.J.	15.74% of N.J.
New York	2,136,034	332,192	15.55% of N.Y.	26.15% of N.Y.
TOTAL	<u>3,033,107</u>	<u>427,859</u>	<u>45,568</u>	<u>5.08% of N.J.</u>
			<u>226,510</u>	<u>10.60% of N.Y.</u>
			<u>272,078</u>	
% minorities of total civilian labor force 16 or over with high school education or less		14.11%	8.97%	23.08% of Total Area Civilian Work Force with a high school education or less
% minority of total civilian male labor force without respect to education		Black % (Table B(2))	Spanish Language % Table B(3)	
New Jersey		8.72% of N.J.	4.44% of N.J.	13.16% of N.J.
New York		13.01% of N.Y.	9.23% of N.Y.	22.24% of N.Y.
TOTAL		<u>11.73%</u>	<u>7.81%</u>	19.54% of Total Area Civilian Work Force

TABLE A(2)
Corrected Civilian Labor Force Figures Based Upon Census Undercount Percentages

State	Total Males In Civilian Labor Force 16 Or Over With A High School Ed. Or Less (Table A(1))	Undercount Fraction All Males*	Black Males In Civilian Labor Force 16 Or Over With A High School Ed. Or Less (Table A(1))	Undercount Fraction For Blacks*	Corrected Total Col. 1 ÷ (1-Col. 2)**	Corrected Black Total Col. 3 ÷ (1-Col. 4)	Corrected Black Percentage (Col. 6 ÷ Col. 5)	Spanish Language % (Table A(1))***	Corrected Minority Percentage Of Total Male Civilian Labor Force 16 Or Over With A High School Ed. Or Less (Col. 7 + Col. 8)
New Jersey	897,073	.033	95,667	.099	927,687	106,179	11.45% of N.J.	5.08	16.53
New York	2,136,034	.033	332,192	.099	2,208,828	368,692	16.69% of N.Y.	10.60	27.22
TOTAL	3,032,107	.033	427,859	.099	3,136,615	474,871	15.14% of Total	8.97	24.11
State	Total Males In Civilian Labor Force 16 Or Over (Table B(1))	Undercount Fraction All Males*	Black Males In Civilian Labor Force 16 Or Over (Table B(2))	Undercount Fraction For Blacks*	Corrected Total Col. 1 ÷ (1-Col. 2)**	Corrected Black Total Col. 3 ÷ (1-Col. 4)	Corrected Black Percentage (Col. 6 ÷ Col. 5)	Spanish Language % (Table B(3))***	Corrected Minority Percentage Of Total Male Civilian Labor Force 16 Or Over + Col. 8
New Jersey	1,224,711	.033	106,735	.099	1,266,506	118,463	9.35% of N.J.	4.44	13.79
New York	2,909,021	.033	378,347	.099	3,008,294	419,919	13.96% of N.Y.	9.23	23.19
TOTAL	4,133,732	.033	485,082	.099	4,274,800	538,381	12.59% of Total	7.81	20.40

* U.S. Department of Commerce, Estimates of Coverage of Population by Sex, Race, and Age: Demographic Analysis, PHC (E)-4, Table 3, at 29. PX 3.

** Original Total = Corrected Total — (Corrected Total x Undercount Fraction)

or $0 = C - (C \times F)$

$0 = C - (1 - F)$

Therefore $C = 0$

$$\frac{—}{1 - F} ; \text{ or } \text{Corrected Total} = \frac{\text{Original Total}}{1 - \text{Appropriate Undercount Fraction}} = \frac{(Col. 1 \text{ or Col. 2})}{(1 - \text{Col. or Col. 4})}$$

*** Spanish language figures are uncorrected due to the fact that estimates of the percentage of Spanish language individuals undercounted have not been made by the Bureau of Census. PX 3, at 21.

TABLE B(1)

Total Civilian Male Labor Force 16 Or Over With High School Education Or Less

State	Total Male Civilian Labor Force (Table 85)	Number Of Total Pop. Male 25+ With High School Education Or Less (Table 83)	Number Of Total Male Pop. 25+ (Table 83)	Column 2 ÷ Column 3 = % Of Males In Pop. With High School Education Or Less	Column 1 X Column 4 = Civilian Male Labor Force 16 Or Over With High School Education Or Less
New Jersey	1,224,711	906,142	1,237,221	73.24%	897,073
New York	2,909,021	2,286,522	3,113,966	73.43%	2,136,034
TOTAL	4,133,732	3,192,664	4,351,187	73.37%	3,033,107

TABLE B(2)

Black Male Labor Force 16 Or Over With A High School Education Or Less

State	Total Black Males 16 Or Over In Civilian Labor Force (Table 92)	No. Black Males 25+ In Population With High School Education or Less (Table 91)	No. Black Males 25+ In Population (Table 91)	Column 2 ÷ Column 3 = % Of Black Males In Pop. With High School Education Or Less	Column 1 X Column 4 = Black Males 16 Or Over In Civilian Labor Force With High School Education Or Less
New Jersey	106,735	96,727	107,800	89.7%	95,667
New York	378,347	358,538	408,353	87.8%	332,192
TOTAL	485,082	455,265	516,153	88.2%	427,859
Total Black Male Civilian Labor Force As A % Of The Total Male Civilian Labor Force (Table B(1))					
New Jersey	8.72%				
New York	13.01%				
TOTAL	11.73%				

TABLE B(3)

Spanish Language Males 16 Or Over In Civilian Labor Force With a High School Education Or Less

State	Total Spanish Language Male 16 Or Over In Civilian Labor Force (Table C)	No. Puerto Rican Male 25+ In Population With High School Education Or Less (Table 97)	No. Puerto Rican Males 25+ In Population (Table 97)	Col. 2 ÷ Col. 3 = % Of Sp. Language Males In Population With High School Education Or Less*	Col. 1 X Col. 4 = Sp. Language Males 16 Or Over In Civilian Labor Force With High School Education Or Less*	Col. 5 X (1 — 11.6%) = Sp. Language Males (exclusive of black Spanish language males) 16 Or Over In Civilian Labor Force With High School Edu- cation Or Less**
	New Jersey	54,336	18,620	19,698	94.5%	45,568
New York	268,377	154,998	162,343	95.5%	256,234	226,510
TOTAL	322,713	173,618	182,041	95.4%	307,787	272,078
Total Spanish Male Civilian Labor Force As A % Of Total Male Civilian Labor Force (Table B(1))						
New Jersey	4.44%					
New York	9.23%					
TOTAL	7.81%					

* The figure in Columns 2 & 3 are actually figures for Puerto Rican males not Spanish language males, since census tables only gives figures for the former group. We are assuming that Spanish language males attend school with the same frequency as Puerto Rican males.

** Census Data indicate that 11.6% of "Spanish Origin" males in the labor force within the jurisdiction of locals 14 and 15 are black. 1970 Census of Population Subject Reports, Persons of Spanish Origin, PC(2)-1C, Table 2. There is no figure for Spanish language males so the spanish origin figure is used. This additional calculation eliminates certain individuals who have been "double-counted", once as a black and once as a member of the Spanish origin group. Corrected Spanish males = Spanish males — (.116 X Spanish Males)

TABLE C

Computation Of Total Number Of Spanish Language Males 16 Or Over In The Civilian Labor Force

Male Puerto Ricans 16 Or Over In The Civilian Labor Force (Table 98)			Spanish Language Pop. (Table 81)		Spanish Language Males 16 Or Over In Civilian Labor Force
State			Puerto Rican Pop. (Table 81)		
New Jersey	23,251	X	255,196	=	54,336
			105,262		
New York	<u>163,290</u>	X	1,390,087	=	268,377
			845,775		
TOTAL	186,541	X	1,645,283	=	322,713
			951,037		

Table 81. Ethnic Characteristics for Areas and Places: 1970

Standard Metropolitan Statistical Areas Places of 50,000 or More (or Central Cities) Urban Balance Urbanized Areas Places of 50,000 or More		[Data based on sample; see text. For meaning of symbols, see text]							
		New York-Northeastern New Jersey SCA				Standard metropolitan statistical areas			
						Albany-Schenectady-Troy			
Total	New Jersey portion	New York portion	Total	Albany	Schenectady	Troy	Urban balance		
NATIVITY AND PARAGEAGE	Total population	16 178 612	4 666 793	11 571 819	721 910	113 875	77 889	62 987	287 346
Native	13 921 741	4 106 631	9 814 910	684 055	108 067	70 715	59 297	273 450	
Native percentage	10 014 524	3 003 991	7 010 533	553 169	67 320	51 938	48 405	219 748	
Foreign or mixed percentage	3 907 217	1 102 840	2 804 277	128 886	20 737	18 777	10 972	53 702	
Foreign born	2 256 871	499 962	1 756 909	37 855	7 808	7 144	3 310	13 890	
COUNTRY OF ORIGIN	Total foreign born	2 256 871	499 962	1 756 909	37 855	7 808	7 144	3 310	13 890
United Kingdom	110 523	33 498	77 025	3 475	529	511	234	1 580	
Ireland	99 146	14 704	84 442	1 305	429	130	156	449	
Norway	18 949	3 679	15 270	185	14	-	11	107	
Sweden	12 233	2 870	9 354	252	50	50	10	121	
Denmark	5 704	1 704	4 700	324	33	49	5	179	
Netherlands	13 000	6 631	6 429	366	6	-	11	11	
Switzerland	9 577	3 188	6 389	125	6	14	11	37	
France	25 381	5 071	20 310	272	57	46	4	114	
Germany	189 169	48 199	140 970	4 405	674	517	315	1 645	
Poland	177 606	40 199	137 407	3 519	769	860	228	1 296	
Czechoslovakia	56 423	9 213	46 710	1 599	62	99	30	200	
Austria	69 899	12 954	56 935	1 022	148	107	116	459	
Hungary	53 420	15 493	37 937	585	68	159	12	202	
Yugoslavia	25 109	5 874	19 235	147	27	11	7	67	
U.S.S.R.	155 491	23 871	132 620	1 858	533	182	342	579	
Lithuania	11 069	2 938	8 131	232	43	27	9	97	
Greece	48 177	8 485	39 692	537	156	106	90	102	
Italy	373 547	93 873	278 874	9 816	2 110	3 102	1 821	2 882	
Other Europe	97 052	24 900	72 152	1 034	288	149	41	418	
Asia	159 327	21 315	18 012	307	177	471	584		
Western Asia	47 476	9 111	38 715	804	154	237	308		
China	42 577	3 039	40 998	214	17	33	29		
Japan	10 794	1 363	9 433	189	40	39	54		
Other Asia	37 898	7 632	30 266	661	266	166	153		
Canada	45 070	12 395	32 673	4 057	664	374	310	1 987	
Mexico	5 135	1 892	2 423	23	-	6	1		
Cuba	28 243	5 721	76 324	159	31	41	47		
Other America	30 660	30 596	277 164	662	201	166	61	156	
All other	24 841	3 946	20 895	203	51	29	19	61	
Not reported	73 720	16 344	57 376	1 045	129	226	142	415	
Total foreign or mixed percentage	3 987 217	1 166 846	2 864 377	128 848	28 737	18 777	18 922	53 705	
United Kingdom	203 666	77 577	136 498	11 6	1 723	1 279	1 092	4 061	
Ireland	207 540	76 521	236 619	11 221	2 781	1 060	1 577	4 029	
Norway	32 628	8 376	24 252	831	58	10	122	408	
Sweden	31 709	10 326	21 383	1 279	146	100	71	599	
Denmark	14 402	5 066	8 716	982	136	190	372		
Netherlands	24 533	6 432	8 101	1 115	60	19	23	455	
Switzerland	15 671	6 779	8 992	379	58	37	18	231	
France	14 125	3 081	27 444	1 777	154	89	39	442	
Germany	304 225	102 443	203 782	13 376	2 434	1 413	1 058	4 894	
Phenicia	378 962	130 738	248 224	14 697	2 153	1 280	1 039	5 857	
Czechoslovakia	70 840	31 084	39 558	2 638	250	389	49	1 062	
Austria	192 376	51 737	140 539	4 175	506	492	399	1 963	
Hungary	95 721	26 988	54 142	1 411	127	204	31	171	
Yugoslavia	9 283	3 223	13 462	399	29	27	182		
U.S.S.R.	461 488	81 335	380 153	6 249	2 132	598	584	2 086	
Lithuania	36 153	13 185	22 668	1 693	299	325	64	623	
Greece	50 830	11 391	39 439	958	235	112	78	381	
Italy	1 020 232	295 335	724 897	31 760	5 072	6 789	2 349	13 285	
Other Europe	125 311	28 907	94 404	304	144	109	93		
Asia	88 940	17 257	71 683	2 364	398	212	279	1 076	
Western Asia	43 437	9 918	33 219	1 395	206	51	224	717	
China	24 644	2 681	21 943	13	37	34	55	57	
Japan	6 645	1 234	4 431	341	26	63	17	170	
Other Asia	15 194	3 424	11 770	317	79	54	-		
Canada	85 491	25 693	59 798	14 711	1 295	1 366	1 219	7 124	
Africa	7 037	1 408	5 629	145	15	47	41	58	
Cuba	35 698	10 800	24 896	196	20	47	41	59	
Other America	17 768	3 474	12 292	867	97	141	77	225	
All other	18 055	3 850	14 239	302	62	16	13	108	
Not reported	106 420	27 222	79 298	1 376	427	424	330	1 452	
Persons of Spanish language	1 645 283	255 196	1 390 087	5 069	719	857	445	2 026	
Other persons of Spanish surname									
Persons of Spanish origin or descent	1 526 590	237 511	1 289 079	3 536	637	350	324	1 265	
Persons of Puerto Rican birth or percentage	951 037	105 242	845 775	784	155	181	114	226	
MOTHER TONGUE	Total native	13 921 741	4 166 631	9 814 910	684 033	168 667	79 713	59 397	273 456
English	2 981 116	2 945 612	6 332 904	552 880	85 158	51 314	47 708	22 417	
French	74 541	16 924	57 597	16 403	1 077	391	1 049	8 624	
German	237 412	117 581	219 931	12 859	2 160	1 447	970	4 810	
Polish	231 399	131 519	99 880	17 709	1 777	1 145	7 204		
Russian	40 411	15 618	24 983	1 385	180	4 190	87	631	
Yiddish	524 241	69 567	456 674	5 368	2 368	704	528	1 446	
Italian	961 820	282 158	679 662	31 000	4 816	6 357	2 305	13 463	
Spanish	1 108 739	129 476	970 353	1 200	333	222	202	125	
All other	494 13	184 236	309 487	16 024	2 123	1 764	1 122	6 457	
Not reported	863 419	212 010	631 409	28 647	8 025	3 095	3 321	8 442	
Total foreign born	2 256 871	499 962	1 756 909	37 833	7 808	7 144	3 518	13 890	
English	340 559	972	297 777	5 967	1 051	912	477	1 744	
French	14 282	10 532	66 176	2 411	295	198	211	275	
German	244 003	65 325	198 478	5 219	700	547	353	2 030	
Polish	94 035	33 827	60 208	3 277	429	805	215	1 255	
Russian	44 660	8 039	36 621	688	132	40	108	278	
Yiddish	223 396	18 487	203 109	1 230	642	201	125	199	
Italian	377 405	95 041	262 341	9 131	2 122	3 234	700	2 724	
Spanish	331 12	88 50	243 455	768	171	204	100	223	
All other	458 654	111 134	347 500	7 271	1 410	771	1 071	2 528	
Not reported	25 019	4 603	20 414	293	66	39	50	116	

Includes West Germany and East Germany

Includes Turkey in Europe.

Includes Taiwan and Mainland China.

*See text for definition

GENERAL SOCIAL AND ECONOMIC CHARACTERISTICS

NEW YORK 34-337

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Table 83. Educational Characteristics for Areas and Places: 1970

[Data based on sample, see text. For minimum base for derived figures (percent, median, etc.) and meaning of symbols, see text]

**Standard Metropolitan Statistical Areas
Places of 50,000 or More
(or Central Cities)
Urban Balance
Urbanized Areas
Places of 50,000 or More**

SCHOOL ENROLLMENT

New York-Northeastern New Jersey SCA			Standard metropolitan statistical areas				
			Albany-Schenectady-Troy				
Total	New Jersey portion	New York portion	Total	Albany	Schenectady	Troy	Urban balance
Total enrolled, 3 years old and over							
3 to 4 years old	4 413 296	1 211 066	3 102 130	216 594	32 446	28 052	19 509
5 and 6 years old	4 336 411	1 289 389	3 041 022	212 484	32 921	19 673	19 212
Nursery school	90 084	26 994	63 090	3 714	554	376	185
Public	25 057	6 611	18 446	2 738	129	84	237
Percent	27.8	25.5	27.2	19.9	28.9	34.3	12.7
Parochial	5 533	1 307	4 226	257	62	15	111
Other private	59 494	19 076	40 418	2 719	132	232	1 516
Kindergarten	248 305	77 914	170 391	13 299	1 453	1 190	948
Public	220 077	69 258	150 819	10 828	952	914	4 757
Percent	88.6	88.9	88.5	65.5	76.8	69.1	80.6
Parochial	17 831	6 630	11 186	2 284	464	248	282
Other private	19 377	2 023	8 274	177	37	28	70
Elementary	2 374 091	717 255	1 656 836	113 441	14 248	9 856	8 401
Public	1 837 243	564 310	1 272 933	89 564	7 930	7 509	5 463
Percent	77.4	78.7	76.8	55.7	76.2	65.9	58.4
Parochial	481 783	142 457	341 326	22 360	5 671	2 265	2 800
Other private	53 065	10 488	42 577	5 517	547	138	417
High school (1 to 4 years)	1 075 375	321 161	754 214	50 143	6 766	4 767	2 076
Public	876 444	267 473	608 571	39 769	3 155	4 124	18 282
Percent	81.5	83.3	80.7	79.3	86.5	60.2	82.9
Parochial	142 314	38 490	103 824	8 075	2 735	510	3 005
Other private	57 017	15 198	41 819	2 799	133	120	763
College	542 536	146 455	396 981	32 897	9 940	3 484	8 904
Public	233 917	65 310	188 607	14 135	6 386	972	1 054
Percent	46.8	44.7	47.6	43.0	64.1	27.9	44.5
Private	288 639	80 755	207 884	18 762	3 574	2 512	4 886
35 years old and over	82 985	21 677	61 308	3 110	465	379	1 276
Total enrolled, 3 to 34 years old	4 322 411	1 289 389	3 041 022	213 484	32 981	19 673	19 212
3 to 4 years old	90 283	24 441	65 842	3 333	466	377	172
5 and 6 years old	465 232	140 409	324 823	23 287	2 707	2 002	1 448
7 to 10 years old	2 016 275	612 233	1 404 041	113 271	15 884	11 765	8 390
11 and 12 years old	1 488 139	371 209	396 920	27 849	3 693	2 415	2 212
13 and 14 years old	509 085	153 273	355 812	24 556	3 452	2 418	1 764
15 and 16 years old	290 515	83 550	205 985	18 281	4 657	1 741	3 146
17 and 18 years old	151 477	42 300	109 177	10 368	1 213	2 013	2 155
19 and 20 years old	111 378	28 427	82 951	5 149	1 544	831	1 361
21 to 24 years old	129 937	34 547	95 390	5 282	1 199	512	1 950
Percent enrolled, 3 to 34 years old	53.9	58.9	53.1	58.8	54.8	58.4	59.9
3 and 4 years old	16.8	15.6	17.3	13.3	15.2	16.1	16.1
5 and 6 years old	8.3	9.4	8.9	8.6	8.5	8.2	8.9
7 to 12 years old	97.4	98.0	97.1	98.2	97.7	98.9	98.7
13 and 14 years old	96.5	97.0	96.2	96.2	97.0	94.9	97.5
15 and 16 years old	91.2	92.1	90.8	94.3	92.8	95.9	87.5
17 and 18 years old	59.9	61.3	59.5	61.1	76.6	65.5	65.5
19 and 20 years old	33.0	34.5	32.5	42.2	55.2	41.7	35.2
21 to 24 years old	15.5	14.6	15.9	16.0	25.9	14.6	12.3
25 to 34 years old	6.4	6.2	6.4	6.5	9.7	6.0	6.0
MALES 16 TO 21 YEARS OLD NOT ATTENDING SCHOOL							
Total	233 301	68 983	174 398	9 380	1 423	1 029	1 175
Not high school graduate	105 602	25 154	80 448	3 334	647	391	474
Percent of all males 16 to 21 years old	44.7	12.3	15.6	3.9	9.7	8.8	7.7
Employed or in Armed Forces	54 092	14 885	39 207	2 167	257	257	300
Unemployed or not in labor force	51 510	10 269	41 241	1 07	223	124	174
High school graduate	129 699	35 249	93 550	6 044	976	638	701
Employed or in Armed Forces	94 153	27 995	66 260	4 906	787	543	535
Unemployed or not in labor force	35 544	7 854	27 690	1 140	189	95	166
YEARS OF SCHOOL COMPLETED							
Total, 25 years old and over	4 351 187	1 237 221	3 112 966	185 328	29 245	20 456	14 612
No school year completed	90 200	19 114	71 086	1 978	492	350	172
Elementary	148 531	39 783	108 748	3 762	815	650	493
1 to 4 years	184 141	45 802	138 329	4 198	907	824	489
5 and 6 years	272 390	72 739	199 651	8 981	1 919	181	888
7 years	175 702	54 565	121 137	8 564	1 402	922	2 857
8 years	130 335	35 044	97 297	23 495	3 861	2 473	2 326
High school	803 449	234 264	596 185	36 241	6 264	3 913	13 718
1 to 3 years	1 445 037	329 613	815 424	53 374	7 506	6 552	3 710
4 years	435 229	117 620	317 609	18 775	2 556	1 882	1 354
5 years or more	348 917	112 672	236 245	13 777	1 897	1 335	826
College	374 377	100 787	273 300	16 391	2 563	1 392	900
Median school years completed	12.1	12.1	12.1	12.2	11.9	12.1	11.4
Feeters, 25 years old and over	5 997 471	1 469 546	3 687 911	215 688	34 882	25 749	18 666
No school years completed	173 531	28 962	108 549	2 635	544	646	282
Elementary	184 141	45 802	138 329	4 198	907	824	1 474
1 to 4 years	328 328	82 373	245 955	8 804	1 796	1 311	3 104
5 years	195 160	57 702	137 458	8 475	5 122	983	1 053
6 years	692 622	195 219	497 403	27 207	5 065	3 299	3 228
High school	941 770	263 371	717 371	16 566	2 285	5 345	4 081
1 to 3 years	1 247 724	496 759	1 244 315	80 524	12 461	9 403	33 113
4 years	418 574	117 583	300 989	21 993	3 538	2 054	9 622
5 years or more	277 218	82 118	193 100	12 344	1 968	980	5 903
Median school years completed	177 053	37 427	139 426	7 899	1 776	734	3 404
12.0	12.1	12.0	12.2	(2.1)	12.1	11.3	12.3
PERCENT BY LEVEL OF SCHOOL COMPLETED							
Total persons, 25 years old and over	9 448 638	2 646 781	6 801 877	401 613	66 147	46 199	33 278
Less than 3 years of elementary school	5.9	5.0	5.3	3.1	4.2	5.3	2.5
Less than 1 year of high school	29.2	26.4	27.4	24.5	27.7	33.1	20.9
4 years or more of high school or more	52.1	52.8	51.8	56.1	51.8	52.7	61.0
4 years or more of college or more	12.5	12.6	12.4	12.6	12.4	9.2	15.4
Median school years completed	12.1	12.1	12.1	12.2	12.1	11.4	12.3
Total persons, 18 to 24 years old	1 640 539	453 915	1 206 644	82 421	18 842	9 582	11 155
4 years of high school or more	64.0	66.4	63.0	71.9	73.8	72.8	70.7
4 years of college or more	8.9	7.9	9.3	8.0	9.3	8.0	8.2
VOCATIONAL TRAINING OF PERSONS							
Total, 25 years old and over	3 827 739	1 102 030	2 725 709	167 458	25 656	19 012	16 240
Male, with less than 15 years of school	30.5	31.6	30.1	30.3	25.0	32.1	30.0
Percent with vocational training	4 675 548	1 317 819	3 357 729	196 998	28 981	22 445	17 500
Female, with less than 15 years of school	26.1	25.2	26.4	24.6	24.4	29.7	19.8
Percent with vocational training							

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Table 85. Employment Status by Sex, for Areas and Places: 1970

(Data based on sample, see text. For minimum base for derived figures (percent, median, etc.) and meaning of symbols, see text)

Standard Metropolitan Statistical Areas Places of 50,000 or More (or Central Cities) Urban Balance Urbanized Areas Places of 50,000 or More	New York-Northeastern New Jersey SCA			Standard metropolitan statistical areas				
				Albany-Schenectady-Troy				
	Total	New Jersey portion	New York portion	Total	Albany	Schenectady	Troy	Urban balance
EMPLOYMENT STATUS								
Total, 16 years old and over	3 294 994	1 531 629	3 863 666	237 467	39 617	38 794	22 026	72 944
Labor force	4 154 480	1 228 191	2 926 289	181 525	28 266	19 173	14 424	79 7
Percent of total	77.0	80.2	75.8	75.6	72.4	71.6	66.4	79.7
Armed Forces	20 748	2 460	17 288	1 190	75	56	109	542
Civilian labor force	4 133 922	1 224 711	2 809 021	180 339	28 191	19 117	14 315	73 417
Employed	3 995 043	1 188 559	2 828 504	174 608	27 012	18 384	13 961	71 620
Unemployed	136 469	36 152	100 517	5 731	1 179	723	554	1 771
Percent of civilian labor force	3.3	3.0	3.5	3.2	3.2	3.3	2.8	2.4
Not in labor force	1 239 614	302 838	936 776	55 532	10 751	7 113	7 402	18 887
Inmate of institution	67 371	4 654	52	2 043	794	92	190	704
Enrolled in school	368 875	99 595	268 949	20 034	3 751	2 444	3 720	6 588
Other: Under 65 years old	338 298	69 259	268 949	11 054	1 928	1 614	1 243	3 718
Percent disabled	39.0	41.8	38.3	51.4	52.1	57.7	51.4	48.8
65 years and over	465 160	119 367	345 793	22 808	4 278	3 463	2 249	7 077
Total, 16 years old and over	3 298 385	98 061	216 234	14 587	3 681	1 325	1 088	6 028
Labor force	28 089	10 402	17 687	2 095	380	178	190	124
Percent of total	9.4	11.5	8.4	14.4	18.3	13.4	17.5	12.7
Employed	24 953	9 347	15 006	1 940	359	142	178	785
Unemployed	3 097	1 036	2 061	730	21	16	12	39
Percent of civilian labor force	11.0	10.0	11.7	6.4	5.5	9.0	6.3	4.7
Not in labor force	272 296	79 459	192 437	12 492	1 701	1 147	898	5 208
Total, 16 years old and over	6 273 181	1 736 023	4 537 158	273 216	49 492	31 516	24 434	185 227
Labor force	2 644 591	763 915	1 886 661	114 456	22 542	13 324	10 424	43 919
Percent of total	42.2	40.0	41.5	42.0	46.0	42.3	42.7	41.7
Armed Forces	658	143	515	—	—	—	—	—
Civilian labor force	2 642 933	763 772	1 880 161	114 456	22 542	13 324	10 424	43 919
Employed	2 525 587	726 991	1 798 596	110 520	22 242	12 851	10 081	42 267
Unemployed	116 346	36 781	81 565	3 926	3 926	3 926	3 926	1 522
Percent of civilian labor force	4.5	4.8	4.3	3.3	3.6	3.5	3.5	3.5
Not in labor force	3 628 590	972 109	2 656 400	157 360	26 650	18 182	14 010	61 408
Inmate of institution	66 110	15 999	53 411	2 674	504	208	473	991
Enrolled in school	324 414	97 525	264 916	19 845	4 735	1 617	1 817	6 595
Other: Under 65 years old	2 360 675	638 708	1 721 967	94 223	12 940	9 922	7 290	30 277
Percent disabled	12.5	11.5	12.9	11.4	14.1	14.6	13.1	11.2
65 years and over	834 564	220 376	616 188	41 018	8 671	6 355	4 430	14 371
Total, 16 and 17 years old	288 438	86 115	292 113	13 765	1 728	1 219	1 188	5 284
Labor force	15 548	5 557	9 991	825	183	141	43	320
Percent of total	5.4	6.4	4.9	6.0	10.6	5.4	3.5	5.5
Employed	13 483	4 678	8 065	697	145	61	34	276
Unemployed	2 065	679	1 364	132	38	5	17	44
Percent of civilian labor force	13.3	12.2	13.9	16.0	20.8	1.1	1.1	13.8
Not in labor force	273 090	80 968	192 122	12 940	1 543	1 153	1 129	5 514
MARITAL STATUS AND PRESENCE OF OWN CHILDREN								
Total women, 16 years old and over	6 273 181	1 736 023	4 537 158	273 216	49 492	31 516	24 434	185 227
With own children under 6 years	1 040 318	301 703	1 499 955	47 421	8 071	4 752	3 732	19 380
In labor force	222 192	72 796	149 995	12 289	1 871	1 509	1 120	4 418
Percent in labor force	1.4	2.1	20.3	26.1	30.8	31.8	30.0	22.8
With own children 6 to 17 years only	1 175 198	352 308	822 890	48 957	6 266	4 687	3 372	21 620
In labor force	548 623	176 575	372 048	25 015	3 445	2 644	1 705	10 785
Percent in labor force	46.7	50.1	45.2	51.1	56.4	52.4	49.9	49.9
No own children under 18 years	4 057 665	1 082 012	2 975 653	175 843	37 550	22 077	17 320	64 317
In labor force	1 873 776	513 144	1 358 632	77 703	17 534	9 181	7 537	28 716
Percent in labor force	46.2	47.6	45.7	43.8	46.9	41.6	43.5	44.6
Borned women, 16 years old and over, headed present	3 491 420	1 038 511	2 466 999	156 646	21 063	16 781	11 446	66 223
With own children under 6 years	891 762	266 548	622 814	43 457	4 951	3 236	2 155	18 255
In labor force	174 966	58 251	115 947	10 283	1 320	1 206	853	3 809
Percent in labor force	19.5	21.7	18.6	22.7	26.7	28.8	20.9	20.9
With own children 6 to 17 years only	985 271	306 794	678 477	43 018	4 864	3 893	2 717	19 304
In labor force	437 418	146 386	291 032	20 791	2 445	2 008	1 333	9 304
Percent in labor force	44.4	47.7	42.9	43.0	50.5	49.1	47.4	47.4
Own children under 18 years	1 614 387	454 769	1 159 818	70 171	11 248	8 700	5 467	28 348
In labor force	698 473	207 314	491 161	30 009	4 914	3 405	2 244	12 390
Percent in labor force	43.3	45.6	42.4	42.8	43.7	39.1	40.9	44.4
Other women	2 781 761	708 519	2 078 949	115 576	28 629	14 735	12 996	39 104
With own children under 6 years	148 566	32 755	115 801	13 599	1 120	954	496	1 123
In labor force	47 944	13 945	34 049	2 064	551	323	267	600
Percent in labor force	32.3	42.6	29.4	53.1	49.2	51.7	51.3	54.1
With own children 6 to 17 years only	189 927	45 514	144 413	5 939	1 402	794	455	2 010
In labor force	111 205	30 189	81 016	4 249	994	562	434	1 479
Percent in labor force	58.6	66.3	77.0	71.1	70.7	70.8	66.3	73.6
Own children under 18 years	2 443 244	627 323	1 816 035	105 672	26 107	13 377	11 843	35 969
In labor force	1 173 301	307 820	847 471	47 043	12 612	5 776	5 292	16 126
Percent in labor force	46.1	49.1	47.8	44.3	48.3	43.2	44.7	44.8
PERCENT IN LABOR FORCE								
Male: 16 and 17 years	27.7	33.2	25.3	36.3	44.7	34.6	37.7	35.5
18 and 19 years	50.5	56.1	48.7	49.3	47.0	45.9	45.9	71.9
20 and 21 years	63.7	67.7	62.2	64.4	61.0	58.0	46.1	61.1
22 to 24 years	82.5	84.7	81.0	85.8	81.1	85.1	72.5	89.8
25 to 34 years	89.9	85.3	91.9	93.4	91.3	95.6	91.8	97.3
35 to 44 years	94.6	96.7	92.7	97.2	95.1	95.3	95.3	97.7
45 to 64 years	89.7	92.0	88.7	89.4	86.8	86.5	86.5	91.2
65 years and over	29.6	29.2	29.7	25.9	31.1	20.0	24.6	24.6
Female: 16 and 17 years	23.9	28.6	21.9	25.4	28.9	21.9	27.0	28.1
18 and 19 years	30.8	37.2	43.3	46.4	41.3	32.2	39.0	52.8
20 and 21 years	59.2	63.7	57.6	58.9	60.5	62.1	57.7	59.2
22 to 24 years	58.9	62.8	57.9	60.5	61.1	68.4	48.7	37.2
25 to 34 years	41.6	42.2	41.6	41.9	45.1	57.2	54.2	47.2
35 to 44 years	34.8	46.8	47.0	49.7	55.4	57.2	54.2	52.1
45 to 64 years	56.9	52.3	50.4	52.5	57.5	52.2	54.3	52.1
65 years and over	11.4	10.5	11.7	10.4	13.4	7.3	11.5	10.0

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Table 91. Social Characteristics of the Negro Population for Areas and Places: 1970

(Data based on sample, see text. For minimum base for derived figures (percent, median, etc.) and meaning of symbols, see text)

Standard Metropolitan Statistical Areas Places of 50,000 or More (or Central Cities) Urban Balance Urbanized Areas Places of 50,000 or More	New York-Northeastern New Jersey SCA			Standard metropolitan statistical areas				
				Albany-Schenectady-Troy				
	Total	New Jersey portion	New York portion	Total	Albany	Schenectady	Troy	Urban balance
PLACE OF BIRTH								
Total population	2 486 365	\$17 517	1 862 846	23 188	13 861	3 153	2 882	2 416
Foreign born	176 712	8 363	168 499	166	87	15	4	46
Native	2 223 653	509 214	1 714 439	23 022	13 794	3 138	2 878	2 368
Born in State of residence	1 245 394	263 251	982 144	12 909	7 672	1 924	1 547	1 242
Born in different State	699 847	189 251	510 596	7 777	4 479	965	1 129	912
Midwest	50 250	18 257	31 353	443	150	106	22	101
North Central	18 131	3 687	14 444	193	99	41	6	38
South	627 298	166 026	461 272	7 088	4 215	826	1 101	765
West	4 298	901	3 397	53	25	12	-	8
Born abroad, or sea, etc.	56 209	3 646	52 563	133	18	58	20	5
State of birth not reported	222 203	53 067	169 136	2 203	1 623	161	182	189
RESIDENCE IN 1965								
Total population, 3 years old and over	1 129 172	485 872	1 483 701	26 367	12 166	2 734	2 447	2 243
Same house	1 104 064	203 466	900 580	9 445	5 229	1 036	1 159	1 074
Different house in Universe	748 164	203 513	544 453	9 304	5 446	1 441	974	1 011
Same County	515 138	157 705	357 633	6 604	4 351	765	898	994
Different County	252 828	45 808	207 020	2 700	1 095	676	738	417
Same State	169 784	15 023	154 763	1 476	476	425	163	220
Different State	83 042	20 785	52 257	1 224	619	251	165	197
Northeast	17 275	9 930	7 255	158	42	49	15	32
Midwest	626	128	4 298	163	87	38	-	35
South	54 644	18 440	38 206	854	490	136	90	135
West	3 095	767	2 328	47	-	28	-	7
Abroad	78 015	4 792	73 222	111	45	21	-	35
Moved, 1965 residence not reported	189 326	44 081	145 243	1 987	1 284	234	338	121
SCHOOL ENROLLMENT								
Total enrolled, 3 to 34 years old	714 312	163 797	550 515	7 743	4 643	1 189	961	625
Nursery school	7 952	2 723	11 322	238	152	28	33	19
Public	10 215	2 837	7 438	180	128	17	23	6
Kindergarten	45 326	10 705	34 621	997	380	77	82	46
Primary	42 671	10 256	32 415	533	327	77	71	46
Elementary (1 to 8 years)	441 317	103 289	332 028	4 706	2 799	652	649	348
Public	412 055	98 150	313 703	4 244	2 507	629	564	311
High school (1 to 4 years)	169 501	36 916	122 585	1 118	768	307	193	114
Public	159 031	35 504	123 547	1 095	799	303	180	154
College	42 273	8 379	33 791	504	324	45	24	96
Percent enrolled, 3 to 34 years old	50.4	51.6	54.8	54.8	53.7	58.3	53.8	52.9
3 and 4 years old	17.8	19.2	17.4	20.2	21.0	24.7	13.9	...
5 and 6 years old	7.8	7.6	7.3	8.7	8.4	9.9	7.6	...
7 to 8 years old	9.5	9.1	9.5	9.7	9.0	9.5	9.8	9.4
9 and 10 years old	9.4	9.3	9.2	9.6	9.7	9.9	9.2	...
11 and 12 years old	8.5	8.7	8.5	9.2	8.9	9.0	8.0	...
13 and 14 years old	4.6	4.8	4.6	5.8	5.7	5.7	4.0	...
15 and 16 years old	16.2	15.0	16.6	16.8	24.3	...	4.0	...
17 to 24 years old	8.2	8.1	8.8	4.4	3.4	1.3	6.8	17.7
25 to 34 years old	4.5	4.4	4.6	4.9	2.4	1.3	6.8	16.9
YEARS OF SCHOOL COMPLETED								
Male, 25 years old and over	516 153	107 800	408 353	4 736	2 756	645	537	596
No school years completed	10 82	2 415	7 767	115	91	12	-	12
Elementary	32 155	8 444	23 711	136	205	28	37	57
1 to 4 years	32 155	8 444	23 711	910	521	135	114	104
5 to 7 years	81 273	17 440	63 330	622	425	69	51	51
8 years	54 554	12 209	42 255	622	400	66	41	41
High school	123 224	38 912	104 423	120	819	124	168	97
1 to 4 years	143 366	26 807	116 559	991	517	214	80	128
4 years	36 016	6 212	29 804	271	76	76	37	62
College	24 672	4 861	20 011	269	97	16	32	63
4 years or more	10 8	10.3	10.9	9	9.5	11.4	9.9	11.3
Median school years completed	39.6	33.1	40.7	32.4	25.0	48.0	27.7	46.1
Percent high school graduates	678 784	134 939	544 745	5 433	3 392	769	598	788
No school years completed	11 863	2 157	9 706	43	43	13	8	8
Elementary	34 651	7 441	27 510	370	259	45	29	47
1 to 4 years	34 651	7 441	27 510	667	456	77	61	125
5 to 7 years	122 124	18 910	83 114	622	425	67	51	51
8 years	73 674	14 758	58 916	608	397	57	61	73
High school	182 332	38 984	143 346	1 706	1 091	229	206	131
1 to 3 years	207 533	40 138	167 395	1 487	765	255	165	212
4 years	40 474	6 874	33 600	340	103	87	34	87
College	26 133	3 075	21 058	152	10.0	11	6	75
Median school years completed	10.9	10.9	12.9	10.2	10.0	11.6	10.7	11.5
Percent high school graduates	40.4	38.9	40.8	33.0	28.3	45.9	34.7	47.3
FAMILY COMPOSITION								
Husbands	538 353	116 121	466 222	5 046	3 048	753	581	543
With own children under 1 year	107 469	24 980	82 489	1 149	754	137	123	115
With own children under 6 years	186 123	47 078	144 045	1 266	1 231	243	275	116
With own children under 12 years	291 261	64 610	226 651	2 764	1 693	373	391	217
With own children under 18 years	320 020	78 771	279 749	3 286	2 046	470	467	218
With some children under 18 years	348 417	84 214	304 203	3 982	2 184	492	466	333
With sons/daughters 12 to 19 years	158 531	34 202	124 329	1 420	813	262	145	151
With sons/daughters 18 to 24 years	83 924	17 043	66 879	628	365	105	63	62
Persons, under 18 years old	942 343	218 411	722 822	16 816	6 084	1 364	1 365	819
Lives with born parents	314 282	122 956	391 326	5 709	3 173	857	843	544
Percent of total	54.6	56.3	54.1	57.0	52.4	42.8	63.2	66.4
CHILDREN EVER BORN								
Women, 25 to 44 yr. old, ever married	150 407	30 630	119 777	1 192	716	137	136	119
Children ever born	443 016	97 548	345 468	4 351	2 803	528	491	277
Per 1,000 women ever married	2 945	3 185	2 884	3 450	3 948	3 363	3 610	2 328

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Table 92. Employment Characteristics of the Negro Population for Areas and Places: 1970

[Data based on sample, see text. For maximum base for derived figures (percent, median, etc.) and meaning of symbols, see next]

Standard Metropolitan Statistical Areas
Places of 50,000 or More (or Central Cities)
Urban Balance
Urbanized Areas
Places of 50,000 or More

	New York-Northeastern New Jersey SCA			Standard metropolitan statistical areas			
				Albany-Schenectady-Troy			
	Total	New Jersey portion	New York portion	Total	Albany	Schenectady	Troy
EMPLOYMENT STATUS							
Male, 16 years old and over	671 158	161 434	529 724	6 376	3 718	906	738
Labor force	487 375	117 170	380 405	4 824	4 202	676	520
Percent of total	73.3	73.8	73.1	74.4	77.5	74.4	69.5
Civilian labor force	485 082	106 233	378 347	4 832	2 876	676	420
Employed	459 362	100 721	358 641	4 464	2 594	610	616
Unemployed	25 720	6 014	19 706	308	282	66	4
Percent of civilian labor force	5.3	5.6	5.2	8.0	9.8	9.8	4.7
Not in labor force	183 583	34 264	149 319	1 502	836	232	207
Enrollees in school	118 283	41 337	74 946	1 113	41	10	12
Other	48 857	9 932	38 925	484	236	98	71
65 years and over	79 298	13 004	66 294	495	322	78	47
65 years and over	34 335	7 191	29 144	406	237	46	20
Female, 16 years old and over	873 666	177 322	697 744	7 698	4 642	1 624	873
Labor force	420 808	92 002	328 806	4 037	2 374	584	505
Percent of total	41	51.9	41	52.5	51	57.0	51.2
Civilian labor force	420 420	91 177	328 449	4 037	2 374	584	505
Employed	398 841	85 817	313 024	3 883	2 290	567	480
Unemployed	21 779	6 154	15 625	154	84	17	23
Percent of civilian labor force	5.2	6.7	4.8	3.8	3.5	2.9	5.0
Not in labor force	454 258	85 320	368 938	3 653	2 268	440	368
Enrollees in school	7 637	223	6 412	196	12	5	57
Other	52 725	11 200	43 525	329	210	88	73
65 years and over	320 627	61 432	269 195	2 519	1 647	280	252
Other	61 219	11 455	49 764	509	299	72	55
State, 16 to 21 years old	110 286	23 538	88 748	1 089	615	168	117
Not enrolled in school	52 921	11 049	41 872	436	248	55	75
Not high school graduate	30 222	5 842	24 380	245	147	26	47
Unemployed or not in labor force	18 586	3 344	15 242	129	88	18	7
MARITAL STATUS AND PRESENCE OF OWN CHILDREN							
Male, 16 years old and over	875 946	177 322	697 744	7 698	4 642	1 624	873
With own children under 6 years	193 920	44 212	149 708	1 880	1 207	206	276
In labor force	69 710	18 957	50 753	884	523	139	24
With own children 6 to 17 years only	166 905	35 176	131 729	1 440	785	224	174
In labor force	89 183	20 599	66 224	100	500	124	140
Married	341 413	77 694	284 287	2 217	1 781	448	429
In labor force	171 762	41 475	130 287	1 779	948	284	275
With own children under 6 years	121 058	27 879	93 179	1 176	571	141	192
In labor force	46 142	12 692	33 450	548	267	106	111
With own children 6 to 17 years only	99 747	21 250	78 497	879	445	134	141
In labor force	52 196	12 775	39 421	575	295	97	108
PERCENT IN LABOR FORCE							
Male	14 and 15 years	7.6	8.9	7.2	.9	9.2	-
16 and 17 years	17.8	21.8	16.7	31.8	43.5	...	...
18 and 19 years	44.4	50.9	42.6	53.0	66.5	...	...
20 and 21 years	63.3	68.8	62.4	78.0	85.5	...	...
22 to 24 years	77.2	84.0	76.0	92.9	96.8	...	...
25 to 26 years	87.1	99.5	86.5	98.1	99.8	99.8	99.0
27 to 29 years	87.8	90.7	87.0	94.5	93.1	94.6	100.0
30 to 34 years	81.9	84.5	81.2	82.6	80.3	88.4	87.0
45 to 64 years	26.5	29.5	23.8	32.8	38.2	...	29.3
Female	14 and 15 years	5.3	5.0	5.4	9.0	9.6	...
16 and 17 years	14.4	16.7	13.7	23.8	26.8	...	...
18 and 19 years	40.7	47.0	39.0	36.8	40.2	...	...
20 and 21 years	52.8	57.2	51.6	68.5	61.7	...	...
22 to 24 years	53.8	58.2	54.8	53.2	53.2	...	...
25 to 26 years	51.2	56.4	49.8	57.8	57.1	65.4	52.7
27 to 29 years	56.6	61.4	55.4	60.6	57.4	77.8	53.9
30 to 34 years	55.4	57.8	54.9	59.2	58.1	58.6	60.7
65 years and over	16.2	18.4	15.6	19.9	15.8	...	14.8
WORKERS IN 1969 BY WEEKS WORKED							
Male, 16 years old and over	517 428	112 982	483 446	5 207	3 042	732	428
50 to 52 weeks	317 027	70 266	246 661	2 872	1 628	372	407
27 to 49 weeks	142 125	31 015	111 120	1 594	982	261	166
26 weeks or less	58 266	12 601	45 665	741	457	95	104
Female, 16 years old and over	471 941	106 080	367 661	4 488	2 790	461	357
50 to 52 weeks	226 678	47 215	179 763	2 146	1 304	242	250
27 to 49 weeks	153 800	33 281	120 019	249	748	220	170
26 weeks or less	91 463	23 084	68 379	1 121	646	179	114
CLASS OF WORKER, 16 YEARS OLD AND OVER							
Male employed	459 362	108 721	354 641	6 464	3 394	616	584
Private wage or salary workers	350 538	82 751	247 787	3 334	1 973	424	327
Government workers	127 771	14 457	78 314	1 005	565	142	146
Local government workers	50 600	6 712	43 888	295	151	71	44
Self-employed workers	15 682	3 502	12 380	121	56	34	17
Unpaid family workers	171	11	160	4	-	-	4
Female employed	398 841	85 027	313 624	3 823	2 298	587	421
Private wage or salary workers	297 201	67 023	229 297	2 486	1 477	380	307
Government workers	95 790	16 563	78 616	1 361	795	175	173
Local government workers	57 840	8 255	49 585	372	182	60	52
Self-employed workers	5 990	1 178	4 812	36	18	12	-
Unpaid family workers	471	114	357	-	-	-	-
Male employed, in agriculture	1 912	761	2 171	11	-	4	4
Wage or salary workers	2 132	501	1 621	7	-	4	3
Self-employed workers	756	240	526	-	-	-	-
Unpaid family workers	14	14	14	-	-	-	-
Female employed, in agriculture	1 165	317	788	8	5	-	-
Wage or salary workers	774	230	544	5	5	-	-
Self-employed workers	273	75	198	-	-	-	-
Unpaid family workers	58	12	46	-	-	-	-
LABOR MOBILITY FOR MALES							
Male, 26 to 49 years old in 1970	269 668	56 886	212 982	2 299	1 354	549	291
Nonworker in 1965, nonworker in 1970	24 790	3 816	20 974	142	95	7	25
Nonworker in 1965, worker in 1970	41 398	8 740	32 658	349	251	49	11
Worker in 1965, nonworker in 1970	16 621	3 680	12 941	158	80	32	20

The concept "worker" includes the employed plus members of the Armed Forces.

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Table 97. Social Characteristics of Persons of Puerto Rican Birth or Parentage for Areas and Places: 1970

(Data based on sample, see text. For minimum base for derived figures (percent, median, etc.) and meaning of symbols, see text)									
Standard Metropolitan Statistical Areas Places of 50,000 or More (or Central Cities) Urban Balance Urbanized Areas Places of 50,000 or More	New York-Northeastern New Jersey SCA			Standard metropolitan statistical areas					
				Albany-Schenectady-Troy					
	Total	New Jersey portion	New York portion	Total	Albany	Schenectady	Troy	Urban balance	
PLACE OF BIRTH									
Total population	951,637	165,242	845,775	784	155	181	114	226	
Foreign born	-	-	-	-	-	-	-	-	
Home	951,637	165,242	845,775	784	155	181	114	226	
Born in State of residence	370,459	51,141	329,318	420	87	133	17	166	
Born in different State	11,691	6,837	4,854	29	-	-	29	-	
Northeast	8,372	6,456	1,916	23	-	-	23	-	
North Central	1,123	113	1,012	-	-	-	-	-	
South	1,515	194	1,321	6	-	-	6	-	
West	639	74	565	-	-	-	-	-	
Born abroad, at sea, etc.	560,197	65,555	494,642	285	68	48	56	100	
State of birth not reported	8,690	1,729	6,961	-	-	-	-	-	
RESIDENCE IN 1965									
Total population, 5 years old and over	894,455	88,195	736,440	673	129	134	114	203	
Some house	353,972	25,467	228,415	197	40	21	45	41	
Different house in United States	349,833	41,928	307,856	428	57	124	85	156	
Same county	250,661	32,375	218,284	216	12	98	24	15	
Different county	99,122	9,553	89,569	212	14	15	61	11	
Same State	88,347	2,815	83,532	143	14	15	8	9	
Different State	12,775	6,738	6,037	69	-	-	-	-	
Different State	9,206	6,363	2,843	94	-	-	-	-	
North	1,727	1,044	1,248	29	-	-	-	-	
North Central	1,272	1,044	1,248	100	6	29	23	82	
South	1,368	154	1,222	5	-	-	-	-	
West	829	125	694	-	-	-	-	5	
Abroad	69,727	13,903	55,824	23	9	-	-	-	
Moved, 1965 residence not reported	51,240	6,894	44,346	25	14	-	-	11	
SCHOOL ENROLLMENT									
Total enrolled, 3 to 34 years old	293,150	21,194	261,954	254	42	81	35	113	
Nursery school	2,239	303	2,936	-	-	-	-	-	
Public	2,607	265	2,342	-	-	-	-	-	
Kindergarten	18,733	2,545	16,188	15	-	5	4	6	
Public	17,663	2,363	15,200	11	-	-	-	-	
Elementary	199,439	22,714	176,663	190	6	29	23	82	
Public	176,511	19,544	157,677	190	6	29	23	82	
High school (1 to 4 years)	63,833	5,018	58,151	88	-	41	14	27	
Public	58,558	4,581	53,477	88	-	41	14	27	
College	9,556	954	8,602	61	36	6	14	-	
Percent enrolled, 3 to 34 years old	44.3	42.3	44.8	66.0	-	65.8	-	67.6	
3 and 4 years old	0.6	1.3	1.1	-	-	-	-	-	
5 and 6 years old	71.9	68.7	72.4	-	-	-	-	-	
7 to 9 years old	94.5	93.4	94.7	99.9	-	-	-	-	
10 and 15 years old	91.5	90.4	91.6	-	-	-	-	-	
16 and 17 years old	76.9	70.0	77.6	-	-	-	-	-	
18 and 19 years old	41.0	36.6	41.5	-	-	-	-	-	
20 and 21 years old	9.0	6.3	9.4	-	-	-	-	-	
22 to 24 years old	4.2	4.0	4.2	-	-	-	-	-	
25 to 34 years old	2.1	2.0	2.1	-	-	-	-	-	
YEARS OF SCHOOL COMPLETED									
Male, 25 years old and over	182,641	19,696	162,343	156	46	33	25	27	
No school years completed	4,170	466	3,533	5	-	5	-	-	
Elementary	24,267	3,094	21,173	22	5	17	-	-	
1 to 4 years	22,974	4,361	13,613	10	6	4	-	-	
5 to 7 years	22,942	2,989	22,953	20	6	4	-	-	
High school	45,970	4,720	41,586	51	6	15	-	21	
1 to 3 years	32,034	2,896	29,140	27	14	7	-	6	
College	3,696	424	3,077	6	-	-	-	-	
1 to 3 years	2,727	474	2,253	9	9	-	-	-	
Median school years completed	8.8	8.5	8.9	10.1	-	-	-	-	
Percent high school graduates	22.2	20.2	22.5	28.0	-	-	-	-	
Female, 25 years old and over	217,849	20,321	197,531	121	24	5	34	43	
No school years completed	15,490	1,567	13,923	-	-	-	-	-	
Elementary	35,049	3,331	31,718	15	-	-	15	-	
1 to 4 years	30,099	5,046	45,053	-	-	-	-	-	
5 to 7 years	28,078	5,666	25,512	19	6	5	6	-	
High school	46,573	4,740	42,830	25	6	11	5	8	
1 to 3 years	35,450	3,254	32,166	37	12	-	-	-	
College	4,923	491	4,421	14	-	-	-	-	
1 to 3 years	2,150	323	1,827	11	-	-	-	6	
Median school years completed	8.3	8.1	8.3	12.0	-	-	-	11	
Percent high school graduates	19.5	20.0	19.5	51.2	-	-	-	-	
FAMILY COMPOSITION									
Families	231,424	22,756	207,846	146	22	28	31	42	
With own children under 1 year	64,516	6,028	56,478	83	22	17	10	18	
With own children under 6 years	100,648	12,018	98,830	88	27	17	10	18	
With own children under 12 years	146,787	15,950	130,837	126	27	24	23	34	
With own children under 18 years	173,559	18,469	155,090	151	27	35	31	42	
With sons/daughters under 25 years	186,540	19,455	167,085	160	27	35	31	42	
With sons/daughters 13 to 19 years	59,999	8,195	62,904	73	-	18	12	24	
With sons/daughters 10 to 24 years	33,554	2,795	30,599	28	-	5	4	10	
Persons under 18 years old	427,909	50,364	377,549	461	41	122	36	146	
Living with both parents	266,760	35,349	231,411	322	19	116	36	113	
Percent of total	62.3	70.2	61.3	80.3	-	95.1	-	77.4	
CHILDREN EVER BORN									
Women, 15 to 44 yr. old, ever married	58,159	5,221	52,436	46	6	5	20	17	
Children ever born	196,845	18,516	178,329	176	42	-	-	-	
Per 1,000 women ever married	3,285	3,480	3,375	-	-	-	-	-	

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Table 98. Employment Characteristics of Persons of Puerto Rican Birth or Parentage for Areas and Places: 1970

		New York-Northeastern New Jersey SCA		Standard metropolitan statistical areas			
				Albany-Schenectady-Troy			
Standard Metropolitan Statistical Areas							
Places of 50,000 or More (or Central Cities)							
Urban Balance							
Urbanized Areas							
Places of 50,000 or More							
EMPLOYMENT STATUS				Total	New Jersey portion	New York portion	Total
Male, 16 years old and over		236,039	28,746	237,793	229	54	67
Labor force	Percent of total	187,320	23,292	164,028	170	40	51
Civilian labor force		73,2	82,5	72,0	74,2	-	-
Employed		186,311	23,151	163,290	70	40	51
Unemployed		175,305	21,800	153,655	142	29	43
Percent of civilian labor force		11,236	1,351	8,885	28	11	8
Net in labor force		6,0	5,8	6,1	16,5	-	-
Inmate of institution		68,719	4,954	63,765	59	14	16
Enrolled in school		3,370	233	3,137	-	-	-
Other	Under 65 years	20,453	5,560	18,823	51	14	16
65 years and over		37,140	2,491	35,068	8	-	-
Female, 16 years old and over		7,407	450	6,957	-	-	-
Labor force	Percent of total	305,610	38,270	273,240	195	50	13
Civilian labor force		89,641	11,113	78,528	113	34	5
Employed		89,617	11,107	78,510	113	34	5
Unemployed		82,777	10,015	72,444	106	34	5
Percent of civilian labor force		7,407	1,094	6,046	5	-	-
Net in labor force		9,0	9,8	7,7	4,4	-	-
Inmate of institution		215,949	19,257	196,712	82	26	8
Enrolled in school		683	12	671	-	-	-
Other	Under 65 years	30,001	1,113	18,286	13	5	5
65 years and over		182,116	16,728	148,989	61	18	12
Male, 16 to 21 years old		13,69	802	12,367	8	-	-
Not enrolled in school		50,012	5,438	44,574	53	14	17
Net high school graduate		25,582	3,206	22,476	-	-	-
Unemployed or not in labor force		19,392	2,548	16,844	-	-	-
Female		9,455	800	8,655	-	-	-
MARITAL STATUS AND PRESENCE OF OWN CHILDREN							
Women, 16 years old and over		305,610	38,270	273,240	195	50	13
With own children under 6 years		101,446	12,005	99,441	35	12	5
In labor force		15,927	2,573	13,354	14	5	-
With own children 6 to 17 years only		79,773	9,320	65,337	69	22	10
In labor force		21,388	2,630	18,458	43	12	5
Married women, headed present		160,744	18,422	142,124	130	36	12
In labor force		43,699	6,426	37,273	69	12	17
With own children under 6 years		70,755	9,531	61,224	29	6	5
In labor force		11,868	2,178	9,690	8	-	-
With own children 6 to 17 years only		47,952	4,811	43,141	59	12	5
In labor force		14,743	2,147	12,598	33	6	5
PERCENT IN LABOR FORCE							
Male, 14 and 15 years		5,7	6,7	5,4	-	-	-
16 and 17 years		18,6	34,7	16,9	-	-	-
18 and 19 years		47,0	65,9	44,7	-	-	-
20 and 21 years		67,9	78,4	66,4	-	-	-
22 to 24 years		81,2	90,9	79,8	-	-	-
25 to 24 years		86,8	91,2	86,1	-	-	-
25 to 34 years		86,9	91,8	86,3	-	-	-
35 to 44 years		76	82,8	76,1	-	-	-
45 to 54 years		7,8	12,2	10,7	-	-	-
65 years and over		19,8	12,2	10,7	-	-	-
Female	14 and 15 years	4,4	4,5	4,4	-	-	-
16 and 17 years		14,3	16,5	14,1	-	-	-
18 and 19 years		55,9	50,0	34,1	-	-	-
20 and 21 years		39,5	50,4	38,0	-	-	-
22 to 24 years		34,6	33,1	34,2	-	-	-
25 to 34 years		25,7	32,2	24,9	-	-	-
35 to 44 years		33,4	44,1	32,4	-	-	-
45 to 54 years		32,5	36,4	31,1	-	-	-
65 years and over		7,8	10,6	7,6	-	-	-
WORKERS IN 1969 BY WEEKS WORKED							
Male, 14 years old and over		193,436	32,749	165,447	205	54	51
50 to 52 weeks		124,145	15,104	109,041	94	16	10
27 to 49 weeks		50,563	6,415	44,148	70	24	25
26 weeks or less		18,728	2,330	16,498	41	14	16
Female, 16 years old and over		102,915	13,092	89,633	142	42	35
50 to 52 weeks		46,469	5,181	41,251	54	14	19
27 to 49 weeks		22,125	3,501	20,224	38	10	5
26 weeks or less		22,921	3,373	19,548	40	8	3
CLASS OF WORKER, 16 YEARS OLD AND OVER							
Nonrelatives		173,303	21,900	153,465	149	29	43
Private wage or salary workers		150,156	19,961	130,195	120	15	35
Government workers		19,924	1,355	18,469	15	7	8
Local government workers		10,529	729	10,110	8	-	-
Self-employed workers		5,241	579	4,662	7	-	-
Unpaid family workers		54	79	79	-	-	-
Family members		82,477	10,013	73,464	106	34	22
Private wage or salary workers		70,227	8,936	61,291	52	16	22
Government workers		10,799	821	9,978	56	18	27
Local government workers		6,694	525	6,169	28	6	11
Self-employed workers		1,124	183	941	-	-	-
Unpaid family workers		327	73	254	-	-	-
Blacks		923	234	748	-	-	-
White or other workers		596	231	465	-	-	-
Self-employed workers		86	5	81	-	-	-
Unpaid family workers		-	-	-	-	-	-
Female, employed, in agriculture		92	7	85	-	-	-
Wage or salary workers		67	7	60	-	-	-
Self-employed workers		19	-	19	-	-	-
Unpaid family workers		6	-	6	-	-	-
LABOR MOBILITY FOR MALES*							
Nonworker in 1965, nonworker in 1970		102,845	11,175	77,410	74	28	12
Nonworker in 1965, worker in 1970		10,042	1,493	7,349	-	-	-
Nonworker in 1965, worker in 1970		11,049	1,120	9,729	-	-	-
Worker in 1965, nonworker in 1970		8,188	1,169	7,419	14	5	9

*The concept "worker" includes the employed plus members of the Armed Forces.

GENERAL SOCIAL AND ECONOMIC CHARACTERISTICS

★ U. S. Government Printing Office 1977—

714-017-031

Form 279 - Affidavit of Service by Mail

AFFIDAVIT OF MAILING

STATE OF NEW YORK)
COUNTY OF NEW YORK) ss.:

MICHAEL DEVORKIN

being duly sworn,

deposes and says that he is employed in the office of
the United States Attorney for the Southern District of
New York.

That on the 10th day of May, 1977
he served 2 copies of the within Amicus Curiae Brief of the U.S. of America
by placing the same in a properly postpaid franked
envelope addressed:

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2401 E. Street, N.W., Washington, D.C. 20506

And deponent further says that he sealed the said
envelope and placed the same in the mail chute drop for
mailing at One St. Andrew's Plaza, Borough of Manhattan,
City of New York.

Michael Devorkin

MICHAEL DEVORKIN

Sworn to before me this
10th day of May, 1977

Steven K. Frankel
STEVEN K. FRANKEL
Notary Public, State of New York
No. 24-4607165
Qualified in Kings County
Commission Expires March 30, 1979